

**ANALYSIS OF INFORMED CONSENT AS THE LEGAL
PROTECTION OF PHYSICIAN RELATIONSHIPS AND PATIENTS
IN MALPRACTICE CASES**

(Case Study of Supreme Court Decision Number 21/Pdt.G/2018/PN Mnk)

Irwan Lazuardi^{1*}, Siti Marwiyah²

^{1,2} Universitas Dr. Soetomo Surabaya

E-mail: ¹⁾ lazurdi_irwan@yahoo.com, ²⁾ siti.marwiyahsh@unitomo.ac.id

Abstract

The implementation of medical behavior involves two parties, namely doctors or other health workers as executors of medical behavior and patients as recipients of medical behavior bound in Informed Consent. However, the occurrence of malpractice cases causes the role of Informed Consent to be doubted both from the patient and doctor's side because the validity of Informed Consent becomes biased if there is no legal basis and knowledge of the agreement. The research aims to analyze the role of Informed Consent as legal protection for the relationship between doctors and patients in cases of malpractice and to analyze the legal remedies given to doctors and patients in malpractice cases in Supreme Court Decision Number 21/Pdt.G/2018/PN Mnk. This type of research is normative research using a statutory-based approach. The process of collecting data through a literature study with an analysis of legal materials through a qualitative descriptive analysis. The results of the study prove that the role of informed consent as legal protection is not entirely a determinant of a case being declared as malpractice. From the decision Number 21/Pdt.G/2018/PN Mnk it was concluded that the existence of Informed Consent could not be used as legal protection because the doctor was proven to have made a mistake in setting the drug dosage. Related to the legal protection given to patients who are victims of malpractice is the Health Law no. 23 of 1992 which gives everyone the right to ask for compensation for mistakes and negligence committed by health workers.

Keywords: *Informed Consent, Malpractice, Medical Treatment*

1. INTRODUCTION

An accident, disaster and other adverse event is something that cannot be predicted to whom when and where it occurs. This inability to predict can also be referred to as uncertainty, which is further interpreted as a risk. Every day humans face risks, both as individuals and as companies (Suryanto, 2017). Risk is a potential event that can be detrimental due to uncertainty over the occurrence of an event, where uncertainty is a condition that causes the growth of risks originating from various activities (Syah, 2017). According to Jaka (2015), risk cannot be eliminated but its impact can be minimized. This is what causes guarantees in the implementation of an activity.

Every human being has the right to health as a manifestation of human rights which are guaranteed by the state constitution. This is why the right to health can no longer be considered a personal matter or just a gift from God and is not the responsibility of the state, but has become a legal right guaranteed by the state itself (Inriani, 2021). The importance of health as a human right and as a necessary condition for the fulfillment of other rights has been recognized internationally (Tampubolon, Siregar, dan Siburian 2022). Therefore, every human being has the Right to Health which includes the right to a healthy life and work, the right to receive health services, and special attention to the health of mothers and children (Ardinata, 2020).

Informed Consent is the consent given by the patient or his legal guardian to the doctor to perform a medical action on the patient after obtaining complete and understandable information about the action (Octaria and Trisna 2016). The use of Informed Consent begins from the first time the patient arrives with the intention of seeking help where the arrival of the patient for treatment indicates the patient's trust in the doctor to take action on the patient. In addition, on the doctor's side, an attitude of prioritizing patient health will also be instilled. Informed consent can help provide information to patients so that patients understand the actions of medical personnel who will take action as an effort to cure their illness, and also get information about their illness. Whereas for health workers Informed Consent can be used as a basis by health actors to provide a sense of security in carrying out medical actions as an effort to cure patient illnesses, as well as as a defense if the results of medical action are not in accordance with the wishes of the patient and the patient's family.

The implementation of medical behavior involves two parties, namely doctors or other health workers as executors of medical behavior and patients as recipients of medical behavior. The participation of both parties in carrying out medical actions is regulated by ethical and legal norms so that these medical actions can be carried out properly and no party is harmed. The ethical norms of medical behavior for doctors are regulated in the code of ethics for the medical profession, which serves as a guideline for the attitude and behavior of the medical profession. In addition, ethical norms also instruct members how to behave while at the same time ensuring the moral character of the profession to be respected by society.

Ethical norms are usually stated in writing. Based on the Indonesian Medical Code of Ethics (KODEKI), 4 (four) obligations are defined as ethical norms that must be obeyed, namely ethics related to general obligations, ethics related to patients, ethics related to colleagues and ethics related to oneself. The purpose of implementing this code of ethics is to ensure that medical practice is carried out in a dignified and professional manner according to the noble traditions of the medical profession and upholds the dignity and dignity of patients as whole human beings. Several ethical norms exist in the Indonesian Medical Ethics Code (KODEKI), among others; humble, honest, fair, compassionate, respecting patient decisions, caring for others, trustworthy, working to the highest standards and so on.

Apart from the existence of ethical norms for health workers, there are also legal norms that must be met. This legal norm aims to regulate the attitude and behavior of doctors in carrying out medical actions in accordance with applicable laws and regulations. Legal norms stipulate that doctors are required to carry out medical procedures in accordance with professional standards, standard operating procedures and in accordance with patient needs, as a patient's right to obtain quality medical services or behavior. This legal norm is intended to provide legal certainty and legal protection for doctors and patients.

In principle, ethical norms and legal norms for health workers have differences. Ethical norms focus on good or bad attitudes and behavior, while legal norms focus on right or wrong attitudes and behavior. Violations of ethical norms can occur if a doctor deliberately ignores a patient and does not provide timely assistance, but if there is an act of treatment that causes loss, injury or death, this behavior is a violation of legal norms. At the same time, medical actions that are carried out without the consent of the patient's

behavior can violate legal norms and ethical norms, because they ignore the patient's humanity. So, it is concluded that not all violations of ethical norms are included in violations of legal norms.

Lack of legal literacy makes people not aware that they have violated the rule of law. Not only can they be sentenced to imprisonment, but also compensation according to civil law (Astutik et al., 2020). This can be proven from malpractice violations that often occur. Malpractice violations are violations that occur several times in society. According to Fitriyono, Setyanto, dan Ginting (2016), Malpractice is any wrong attitude, lack of skills at an unreasonable level. Malpractice is the result of a default which causes unlawful acts, because of malpractice caused by the doctor not taking action according to what has been agreed or according to the procedure for medical action with the patient or doctor (Pratama dan Ngadino 2022). This malpractice action is an act that violates legal norms because it can cause harm to patients, both financial losses and health losses guaranteed by law.

One example of a malpractice case is found in the decision of the Supreme Court Number 21/Pdt.G/2018/PN Mnk. In this case there was a malpractice action carried out by the hospital which caused the patient to experience an overdose of Paracetamol. Even though in every treatment action carried out by a doctor based on approved Informed Consent. However, this Informed Consent cannot be used as legal protection if it is proven that the health worker has indeed made a mistake in the process of handling the health. Based on the background of the problems above, researchers will conduct a study regarding the position of Informed Consent as a legal umbrella for doctors and patients in carrying out treatment measures. Researchers will analyze the results of the Supreme Court decision No. 21/Pdt.G/2018/PN Mnk. Therefore, the researcher will conduct a study entitled Analysis Of Informed Consent As A Legal Protection Of Physician And Patient Relationships In Malpractice Cases (Case Study Of Supreme Court Decision Number 21/Pdt.G/2018/Pn Mnk). The purpose of this study is to analyze the role of Informed Consent as legal protection for the relationship between doctors and patients in cases of malpractice in the Supreme Court Decision Number 21/Pdt.G/2018/PN Mnk and to analyze the legal remedies given to doctors and patients in malpractice cases in the Supreme Court Decision. Number 21/Pdt.G/2018/ PN Mnk.

This research can be a means for researchers to implement theories obtained from lectures in analyzing the function of Informed Consent as Legal Protection for the Relationship between Doctors and Patients in Malpractice Cases. This research also can be a reference for further research which will conduct research with the same topic, namely regarding the analysis of the function of Informed Consent as Legal Protection for the Relationship between Doctors and Patients in Malpractice Cases

2. LITERATURE REVIEW

2.1. Informed Consent

The term Indonesian Informed Consent is translated as consent to medical action which consists of two English syllables, namely Inform which means Information and consent means consent. So that in general Informed Consent can be interpreted as the consent given by a patient to a doctor for a medical action to be performed, after obtaining clear information about the action (Achadiat, 2006). Informed Consent according to Permenkes No.585 / Menkes / Per / IX / 1989, Approval for Medical Actions is approval

given by patients or their families on the basis of an explanation regarding the medical actions to be performed on patients.

2.2. Malpractice

Malpractice is any wrong attitude, lack of skill in an unreasonable degree. This term is generally used for the behavior of doctors, lawyers and accountants. Failure to provide professional service and to perform it to the standard of skill and intelligence that is reasonable in the community by the average colleague of the profession, resulting in injury, loss or damage to those recipients of those services who tend to place their trust in them. This includes any professional misconduct, improper skill deficiency or lack of due care or legal, bad or illegal practice or immoral behavior.

2.3. Legal Protection

According to Moeljatno (2008) law functions to protect human interests. In order for human interests to be protected, the law must be implemented. The implementation of the law can take place normally, peacefully, but it can also occur due to violations of the law. Legal protection is the protection of human rights owned by legal subjects based on legal provisions from arbitrary actions or as regulations that can protect one thing from another. With regard to consumers, it means that the law provides protection for the rights of customers from something that results in non-fulfillment of these rights.

3. RESEARCH METHODS

This study adopts the normative legal research method, also referred to as library research, which involves tracing, studying, and analyzing readily available materials such as laws and books, particularly those pertinent to malpractice cases (Arianto, 2011).

The research approach employed here is the normative legal problem approach, which delves into the positive legal principles embedded in legislation, operating under the conceptual framework that law is a set of rules. This approach centers on the examination of secondary data, including literature (Muhaimin, 2020). This choice is aligned with the intention to employ a statutory research approach, where the focus is placed on scrutinizing regulations and literature to extract theories and viewpoints from prior researchers.

Both primary and secondary legal materials are utilized in this study. Primary legal materials encompass statutory regulations, such as the 1945 Constitution of the Republic of Indonesia, the Civil Code (*Burgerlijk Wetboek*), Law Number 36 of 2009 concerning Health, Government Regulation Number 47 of 2021, and Law Number 8 of 1999 concerning Consumer Protection. Complementing this, secondary legal materials are drawn from sources like books, literature, newspapers, and law journals that pertain to the research's subject matter.

The research methodology and data collection process revolve around library research. Library studies involve a sequence of activities encompassing the collection, reading, recording, and processing of research materials (Supriyadi, 2017). This approach entails gathering and studying reference books, written materials, and other relevant forms of content tied to the research topic.

For data analysis, a qualitative approach is adopted. This qualitative analysis aims to discern the pertinent legal principles, laws, and regulations related to malpractice, offering a scientifically grounded understanding.

4. RESULTS AND DISCUSSION

4.1. The role of Informed Consent as legal protection for the relationship between doctors and patients in cases of malpractice in the Supreme Court Decision Number 21/Pdt.G/2018/PN Mnk

The relationship between doctor and patient is a relationship that is intertwined in a transaction that creates the rights and obligations of each party that must be respected by both. The relationship between doctors and patients gives rise to two legal aspects, namely "*inspanning verbintenis and resultant verbintenis*" (Hanafiah et al., 2016). *Inspanning verbintenis* is a legal relationship between two legal subjects (doctors and patients) and creates rights and obligations for those concerned. This legal relationship does not promise anything certain, because the object of the legal relationship is in the form of maximum efforts made carefully and carefully by doctors based on their knowledge and experience to cure patients (Koeswadi, 2002).

Informed consent is a form of patient agreement and approval of medical actions that doctors will take on patients after receiving information from doctors regarding medical actions that can be performed and the risks that may occur. The obligation to make informed consent is contained in several laws, including:

- a. Law Number 29 of 2004 concerning Medical Practice Article 45 paragraph (1) to (6).
- b. RI Minister of Health No. 1419/Menkes/Per/X/2005 concerning Implementation of Medical Practice.
- c. RI Minister of Health No. 585/Men.Kes/Per/IX/1989 concerning Approval of Medical Actions.

According to the Medical Practice Act Article 45 paragraph 4 states that consent to medical action can be given in writing or orally. In general, there is a requirement to have written informed consent signed by the patient prior to carrying out certain medical actions related to documentation in the medical record. Signing informed consent in writing by the patient is actually intended as confirmation or confirmation of the consent that has been given after the doctor has given an explanation regarding the medical action he will take (Octavia, 2020). From Articles 3 and 4 of Permenkes 585/Men.Kes/Per/IX/1989 it also states that the signing of written informed consent is done after the patient or family has received complete information. By signing the information in writing, it can be interpreted that the signatory is responsible for handing over part of the responsibility for himself to the doctor concerned along with the risks he will face (Widjaja and Firmansyah 2021).

The nature of the signature of the Informed Consent as validation/confirmation/affirmation causes the doctor not to be free from all forms of responsibility for something that happens to the patient when carrying out an action. Medical actions performed by doctors must be accountable according to professional standards and existing laws. The doctor must provide information about the side effects or risks of the treatment given so that the patient or patient can choose which treatment to take. For example, when a risky operation occurs, the doctor must provide information

on this risk and allow the patient to choose and determine his own destiny in the form of an approval for surgery that has been given by the patient or his family or not approved.

In general, explanation of information by doctors is far more important than signing a written agreement, because it is the basis for determining decisions to be taken by patients and their families. But an unwritten agreement will be difficult to prove when a deviant event occurs. In accordance with Article 351 of the Criminal Code, when a medical action that is not preceded by the presence of informed consent causes a deviation, then the sanctions are regulated, namely:

- a. Persecution is punishable by a maximum imprisonment of two years and 8 (eight months) or a maximum fine of Rp. 4,500, - (four thousand five hundred rupiah).
- b. If the act results in serious injury, the offender is subject to imprisonment for a maximum of 5 (five) years.
- c. If it results in death, it is threatened with imprisonment for a maximum of 7 (seven) years.
- d. With persecution equated deliberately damage to health.
- e. Attempts to commit these crimes are not punishable

Even though the absence of Informed Consent in medical action is the cause of Malpractice cases. However, there are several elements that must be proven in the act of persecution in article 351 of the Criminal Code, namely:

- a. There is an intention
- b. There is an act.
- c. There are consequences of actions
- d. There is a causal verband between the form of action and the emergence of forbidden consequences.

The law is flexible, meaning that anything that deviates from the rules can be tolerated on condition that it is still within the scope of reasonableness and does not cause harm and which legal interests have a major impact (Ardhani 2020). The existence of informed consent in medical action actually functions as a basis for the abolition of criminal offenses in addition to protecting patients and doctors. When there is an urgent medical action because of the patient's critical condition, the doctor is allowed to take medical action without informed consent. Even though this action is still categorized as an act of violation, according to Article 531 of the Criminal Code which states: "Anyone who, when he witnesses that a person who is facing death does not provide the assistance that can be given to him without due cause for danger to himself or others, shall, if the person subsequently dies, be punished by a maximum light imprisonment of three months or a maximum fine of four thousand five hundred rupiahs."

So medical action in an emergency condition that ignores informed consent can be justified according to the principle of subsidiarity. The law provides a way to defend legal interests that face each other, meaning that it cannot defend both. So what should be chosen is a larger legal interest (for example: the risk of death) rather than defending a smaller legal interest (the interests of doctors to get legal protection against malpractice lawsuits due to the absence of informed consent). The provisions of Article 541 of the Criminal Code and the principle of subsidiarity are used as a basis for doctors to carry out

emergency medical actions without informed consent, either verbally or in writing, in urgent situations in order to save the patient from a fatal risk, namely death.

From the explanation above, it can be concluded that the role of Informed Consent as evidence of malpractice cannot be determined simply. In some emergency cases that threaten the patient's life, doctors are allowed to provide medical treatment without the consent of the patient or the patient's family. The following is a detailed description of the position of informed consent in malpractice cases, namely:

Table 1. Position of Informed Consent in Malpractice Cases

	Malpractice	Not Malpractice
There is Informed Consent	1. There is deviation of obligation in medical action. 2. There is a loss in the patient 3. There is a direct relationship between medical action and losses	1. Medical action is carried out according to medical indications and in accordance with professional standards. 2. There is no deviation from medical obligations. 3. There is no harm to the patient
No Informed Consent	1. There is a doctor's obligation to obtain informed consent. 2. Not carried out without juridical justification 3. There is a loss on the part of the patient. 4. There is a causal relationship between the absence of informed consent and the loss.	In an emergency situation (the risk of death takes precedence over the legal protection of a doctor because there is no informed consent).

Source : Astuti (2009)

Based on the table above, it can be seen that the role of Informed Consent as evidence of Malpractice or cannot be used. The existence of Informed Consent in a Malpractice case must have adequate evidence and in accordance with the legal theory of proof, namely:

- Allowed by law, in this case informed consent is an obligation that must be made by doctors who have been stipulated by the Medical Practice Act
- Reability, namely the validity of the evidence can be trusted (for example: not fake). Informed consent must be obtained after the patient really understands the information that has been conveyed along with the risks that after agreeing to the action to be taken and must comply with the provisions contained in Article 45 paragraphs (1) to (6) of the Medical Practice Act. In this study it was found that even though the doctor had tried to give an explanation before carrying out a medical action, he was not fully convinced that the patient could understand all of the explanation.
- Necessity, namely the evidence is indeed needed to prove a fact.
- Relevance, namely the evidence has relevance to the facts to be proven

Although informed consent can be used as evidence in letters or instructions in accordance with Article 184 of the Criminal Procedure Code, informed consent does not have full binding force in proving malpractice cases. In accordance with the Indonesian evidentiary system which adheres to the theory of proof based on the law in a negative way, then there are other legal pieces of evidence that are needed for the judge's conviction of the evidence.

When viewed from the case in the decision of the Supreme Court Number 21/Pdt.G/2018/PN Mnk it is known that even though there was an agreement for treatment from the patient, the loss suffered by the patient due to an overdose of paracetamol caused the case to be included in a malpractice case. The existence of Informed Consent here cannot be used to protect the actions taken by doctors because they cause harm to patients.

4.2. Legal remedies given to doctors and patients in malpractice cases in Supreme Court Decision Number 21/Pdt.G/2018/PN Mnk

Legal sanctions regarding malpractice cases that occur are regulated in several statutory policies. Based on the Criminal Code (KUHP), acts that cause other people to be seriously injured or die accidentally are formulated in Articles 359 and 360 of the Criminal Code. Where in Article 359 it reads:

“Whoever because of his mistake (negligence) causes another person to die, is threatened with a maximum imprisonment of five years or a maximum imprisonment of one year.”

Meanwhile, Article 360 states that:

“Whoever because of his mistake or negligence causes another person to be seriously injured, is threatened with imprisonment for a maximum of five years or a maximum imprisonment of one year” (Article 360 Paragraph 1)

“Anyone who through his fault (negligence) causes another person to be injured in such a way as to cause illness or obstruction to carry out work or occupation or search for a certain time, shall be punished by a maximum imprisonment of nine months or a maximum light imprisonment of six months or a maximum fine of four thousand five hundred rupiah high” (Article 360 Paragraph 2).

For malpractice perpetrators who cause disability or death related to their duties or work, Article 361 of the Criminal Code provides for a punishment of one third heavier. In addition, the judge can also impose a penalty in the form of revocation of the right to do work used to carry out the crime and order the announcement of the decision.

Based on Law Number 36 of 2004 concerning Health, it also regulates legal sanctions for malpractice cases. Criminal provisions in chapter XX are regulated in article 190 which reads:

- (1) *“Leaders of health service facilities and/or health workers who practice or work at health service facilities who deliberately do not provide first aid to patients in an emergency as referred to in Article 32 paragraph (2) or Article 85 paragraph (2)*

shall be punished with imprisonment for a maximum of 2 (two) years and a fine of a maximum of Rp. 200,000,000 (two hundred million rupiahs)

- (2) *In the event that the act as referred to in paragraph (1) results in disability or death, the head of the health service facility and/or the said health worker shall be punished with imprisonment for a maximum of 10 (ten) years and a fine of up to one billion rupiahs”*

In terms of the Code of Ethics, several legal sanctions are given for malpractice as violations of the code of ethics, namely postponement of salary or rank increases, reductions in salary or rank as well as written and verbal warnings.

The legal protection provided by the state can be in the form of the provision of special legal institutions and instruments, which include protection from acts of violating the law or statutory regulations relating to the doctor-patient relationship, especially in health services (Jalilah, 2005). Protection is protection against all kinds of victimization that can cause mental, physical and social suffering to someone (Ghisita, 2004). In addition, victim protection also means an effort to protect victims so that they can carry out their rights and obligations in a balanced and humane manner based on law.

Legal protection for patients is regulated in various laws and regulations that describe the rules and norms that protect related to rights and obligations as well as other arrangements that protect patients in order to achieve the goals expected by patients, namely healing. This legal protection can be in the form of a legal relationship between patients and health workers, both rights and obligations, legal responsibilities and methods of settlement (Azzahra & Hafliyah, 2019).

In providing legal protection for the relationship between doctors and patients will use the Civil Code (Code of Civil Code). An agreement can arise both because of an agreement, as well as because of a law, so that in determining the legal basis for a therapeutic transaction, the two sources of the agreement cannot be separated because in essence the therapeutic transaction itself is clearly an agreement, namely a legal relationship that occurs between a doctor and a patient. in medical services.

In this case what is meant by a therapeutic transaction is an agreement between a doctor and a patient in which the doctor tries his best to cure the patient's illness, this is called an oral agreement in the Civil Code, so what is needed is not an agreement on verbal results or results, but asking for doctors to do their best to achieve patient recovery. Medical responsibility is based on breach of contract (Article 1243 of the Civil Code) and violation of the law (*onrechtmatige daad*) in Article 1365 of the Civil Code, when a doctor has made a mistake or neglected the agreement, in accordance with the treatment agreement. Meanwhile, the definition of default and unlawful act (*onrechmatige daad*) is different.

In civil procedural law there is no need to prove the existence of elements of negligence, but it is sufficient to prove the facts. His goal is to serve justice. Where this doctrine is commonly used in malpractice cases. The conditions for the validity of *Res Ipsa Loquitur* are, first, the incident does not usually occur; secondly, the loss was not caused by a third party; third, the instruments used in the supervision of the perpetrators of the action; and fourth, not the victim's fault.

Considering that patients are ordinary people in the medical field, this doctrine is believed to give more justice to patients. If the patient becomes a victim of negligence, it is very contrary to the principle of justice to have to prove that negligence occurred. Even

patients do not realize how negligence occurs because they have entrusted their lives and health to doctors who are considered more professional. For this reason, the Res Ipsa Loquitur doctrine places the burden of proof on medical personnel who are believed to know more about the processes and standards used to carry out these medical actions. The patient does not need the process of proving/disclosing negligence, it is enough to show the consequences he has suffered. So, the Res Ipsa Loquitur doctrine is actually a type of indirect evidence, namely evidence about a fact from which a conclusion can be drawn (Heryanto, 2010).

In addition, provisions regarding legal protection for patients who suffer losses due to malpractice by doctors or medical personnel are regulated in several policies. Based on Health Law No. 23 of 1992 which stated:

“Everyone has the right to compensation due to errors or negligence committed by health workers”

Where in the article shows the right to compensation due to losses that occur from malpractice. This right is guaranteed by Health Law No. 23 of 1992 to be used by patients or victims of malpractice. Apart from Health Law No. 23 of 1992 is also contained in article 1365 of the Civil Code which states:

“Every person (medical worker) who because of his negligence causes harm to another person (patient), is obliged for the health worker to provide compensation for the patient.”

The granting of the right to compensation is an effort to provide protection for everyone against any consequences that arise, both physical and non-physical due to the negligence or mistakes of health workers. In addition, to prevent or reduce losses that can be detrimental to patients or recipients of health services, it is necessary to have professional standards that must be obeyed by medical personnel. Where medical personnel must meet the standards of the medical profession and respect patient rights.

5. CONCLUSION

The research findings lead to the following conclusions: Firstly, the role of Informed Consent as a legal safeguard is not solely determinative in categorizing a case as malpractice. If a medical procedure adheres to standards and involves informed consent, resulting in a loss, the incident may not qualify as malpractice, and the doctor is afforded legal protection through informed consent. However, a case exemplified by Decision Number 21/Pdt.G/2018/PN Mnk shows that Informed Consent's existence might not always guarantee legal protection, as evident when a doctor is found to have erred in setting drug dosages. Secondly, legal remedies granted to proven malpractice cases, as illustrated by Decision Number 21/Pdt.G/2018/PN Mnk, align with Article 359. This article states that negligence leading to another person's death is punishable by a maximum of five years' imprisonment or up to one year for minor cases. Law Number 36 of 2004 concerning Health prescribes a maximum of 2 years' imprisonment and a fine of up to Rp. 200,000,000. For cases causing death, the penalty increases to a maximum of 10 years' imprisonment and a fine of up to one billion rupiah. Furthermore, Code of Ethics

violations trigger various sanctions, including salary postponement, rank reduction, and written/verbal reprimands.

Research suggestions are as follows: Firstly, medical errors attributed to doctors extend beyond the presence of Informed Consent. Various types of evidence, properly positioned, should support claims of malpractice. Yet, Informed Consent's significance as legal protection for both doctors and patients remains. It's recommended that medical personnel, especially doctors, consistently issue consent letters complete with signature sections. Such letters serve as proof that patients and their families comprehend and accept potential medical action risks. Correctly performed actions in line with Standard Operating Procedures grant doctors legal protection, but deviations from these procedures void such protection even with patient consent. Secondly, government intervention, particularly by the Ministry of Health, is advised. The government should formulate a clear, distinct rule defining medical malpractice and educate the public on reporting procedures in case of victimization. Proactive patient engagement in reporting malpractice is encouraged, reinforcing the role of the rule of law in offering protection. Hospitals and government entities could establish mechanisms for victims to report incidents and gain legal protection.

REFERENCES

- Achadiat, C.M. (2006). *Dynamics of Medical Ethics and Law in the Challenges of the Age*. EKG Medical Book.
- Ardhani, B.A. (2020). Formulation and Antibacterial Activity Test of Ketapang Leaf Ethanol Extract Cream (*Terminalia Catappa L.*) Against *Propionibacterium Acne* and *Staphylococcus Epidermidis*. At the university 17 August 1945 Surabaya.
- Ardinata, M. (2020). State Responsibility for Health Insurance in the Perspective of Human Rights (HAM) (State Responsibility for Health Insurance in the Perspective of Human Rights). *Human Rights Journal*, 11(2), 319.
- Arianto, H. (2011). *Legal Research Methods Lecture Module*. Esa Superior University.
- Astuti, D.W. (2009). Legal Position of Medical Records and Informed Consent as Evidence in Malpractice Cases.
- Astutik, S., Amiq, B., & Zulaikha, Z. (2020). Use of Social Media and Legal Literacy Among PKK Mothers. *Journal of Social Loyalty: Journal of Community Service in Humanities and Social Sciences*, 2(1), 47. <https://doi.org/10.32493/jls.v2i1.p47-58>
- Azzahra, N., & Hafliyah, T. (2019). Legal Protection for Patients Due to Medical Malpractice In terms of statutory regulations. *Student Scientific Journal*, 3(3), 585–597.
- Fitriano, R.A., Setyanto, B., & Ginting, R. (2016). Malpractice Law Enforcement Through Penal Mediation Approach. *Yustisia Law Journal*, 5(1), 101–102. <https://doi.org/10.20961/yustisia.v5i1.8724>
- Ghisita, A. (2004). *The Problem of Victims of Crime*, Kztmpulan Essay. Popular Science World.
- Hanafiah, Amir, M.J., & Amri. (2016). *Medical Ethics & Health Law*. EGC.
- Heryanto. (2010). *Web-Based Health Center Service Application (Case Study of Maja Health Center) Jakarta*. Syarif Hidayatullah State Islamic University.
- Inriani, V.W. (2021). Nurse Criminal Liability For Medical Malpractice That Results In Death (Case Study Decision Number 75/Pid.Sus/2019/PN.Mbo). HASANUDDIN

UNIVERSITY.

- Jaka, D.L. (2015). Risk Management Model on Cost Performance and Time of Construction Project Implementation. UAJY.
- Jalilah, N.L. (2005). Legal protection for patients who are victims of medical malpractice.
- Koeswadi, H.H. (2002). Medical Law Symposium Paper, National Legal Development Agency.
- Moeljatno. (2008). Principles of Criminal Law. Rineka Cipta.
- Muhaimin. (2020). Legal Research Methods. Mataram University Press. p. 46-48.
- Octaria, H., & Trisna, W.V. (2016). Implementation of Providing Information and Completeness of Informed Consent at the Bangkinang Regional General Hospital (RSUD Bangkinang). *Journal of Community Health*, 3(2), 59–64. <https://doi.org/10.25311/keskom.vol3.iss2.103>
- Octavia, L. (2020). Characteristics of Patients with Osteoarthritis of the Hip and Knee at Hasanuddin University Hospital and RSUP Dr. Wahidin Sudirohusodo for the period January 2018 - December 2018. Faculty of Medicine, Hasanuddin University and RSUP Dr. Wahidin Sudirohusodo.
- Pratama, C. A. E., & Ngadino. (2022). Position of Informed Consent as Legal Protection for Physician and Patient Relations in Malpractice Cases. *Notary*, 15(1), 241–252. <https://doi.org/10.14710/nts.v15i1.46038>
- Supriyadi, S. (2017). Community of Practitioners: Alternative Knowledge Sharing Solutions between Librarians. *Lentera Pustaka: Journal of Library Studies, Information and Archives*, 2(2), 83. <https://doi.org/10.14710/lenpust.v2i2.13476>
- Suryanto. (2017). Uncertainty and Risk. *Risk Management And Insurance*, 98.
- Shah, M. R. (2017). Application of murabahah financing risk management at BPRS PNM Binama Semarang. Walisongo State Islamic University Semarang.
- Tampubolon, N., Siregar, H., & Siburian, K. (2022). State Responsibility for Health Insurance in the Perspective of Human Rights. *Nommensen Journal of Constitutional and Administrative Law*, 01(01), 25–34. <https://doi.org/10.30641/ham.2020.11.319-332>
- Widjaja, G., & Firmansyah, Y. (2021). Informed Consent Gunawan. 4(1), 539–552.

Copyrights

Copyright for this article is retained by the author(s), with first publication rights granted to the journal.

This is an open-access article distributed under the terms and conditions of the Creative Commons Attribution license (<http://creativecommons.org/licenses/by/4.0/>).