

Legal Analysis of Medical Malpractice Cases Based On Supreme Court Decision Number 85/Pdt/2021/PT.PAL

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Abstract:

This study examines the legal aspects of Supreme Court Decision Number 85/Pdt/2021/PT.PAL relating to alleged medical malpractice in Indonesia. The research focuses on analysing the judges' legal considerations, the application of medical professional standards, and the forms of legal liability of medical personnel from civil, criminal, and professional perspectives. The research uses a normative legal method with a case approach and a statute approach. The results show that in the decision, the judge applied the prudence principle and the *lex artis ad hoc* doctrine, which is the assessment of medical actions based on professional standards at the time the action was performed, not based on the final outcome. The judge emphasised that in order to prove medical malpractice, three main elements must be fulfilled: negligence of professional standards, actual harm to the patient, and a direct causal relationship between the two. The criminal liability of doctors is *ultimum remedium*, so it can only be applied if there is proven gross negligence or intent that causes serious harm. This ruling strengthens legal certainty and protection for doctors who have acted in accordance with professional standards, while also providing legal guidelines for the protection of patients' rights.

Keywords: Legal; Analysis; Medical Malpractice; Cases; Liability

INTRODUCTION

The development of modern medicine has brought significant advances in healthcare, but on the other hand, it has also increased the complexity of the legal relationship between medical personnel and patients. Medical malpractice is now an increasingly crucial issue in Indonesia because it concerns two fundamental aspects: the protection of patient rights and the professional responsibility of healthcare personnel. Based on data from the Indonesian Medical Association (IDI), the number of complaints of alleged malpractice has increased every year, especially since the public gained access to legal mechanisms and the mass media (Ghozali et al., 2024).

Issues related to medical malpractice are essentially focused on legal aspects, as such actions constitute medical practices that contain elements of legal violations and can have fatal consequences for patients. The main purpose of regulations on this matter is to protect the public, especially patients, from unprofessional, experimental, or potentially harmful medical practices (Mustafa & Darmawan, 2024). Therefore, every doctor or medical professional is expected to apply their expertise and knowledge carefully and cautiously in providing services, in order to avoid mistakes that could harm both patients and themselves.

This phenomenon shows that public trust in the health system is not only determined by the quality of service, but also by legal certainty when professional violations occur. In Indonesia, medical

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malpractice is often interpreted as negligence on the part of health workers in carrying out their profession, which causes harm to patients. However, the term medical malpractice itself is not explicitly regulated in legislation. Instead, Indonesian positive law uses the concept of professional negligence, which is regulated through a combination of Law No. 29 of 2004 on Medical Practice, Law No. 36 of 2009 on Health, as well as the Civil Code and the Criminal Code.

The COVID-19 pandemic has had far-reaching implications for various sectors of life, including law and health (Yusyanti, 2021). Medical services in a crisis situation require professionalism and compliance with standard operating procedures, but on the other hand, they increase the potential for medical errors that can lead to legal disputes (Abdi et al., 2022). In Indonesia, medical malpractice lawsuits have increased during the pandemic. These lawsuits are not only directed at doctors, but also hospitals and even the government as the provider of health services.

Supreme Court Decision Number 85/Pdt/2021/PT.PAL is relevant to examine because it concerns a civil lawsuit due to alleged medical negligence that caused harm to a patient. In this context, the legal relationship between doctors and patients is not only viewed from the perspective of medical ethics, but also as a contractual legal relationship governed by the principles of good faith and professional responsibility. Hospitals and medical personnel are obliged to provide legal protection to patients who suffer losses due to medical negligence in accordance with Article 58 of Law No. 36 of 2009 concerning Health (Prayuti et al., 2023). In this case, the plaintiff argued that the medical action of isolating his wife, who had tested negative for COVID-19, constituted negligence and a violation of the patient's rights, as it resulted in her death. The lawsuit was filed on the basis of "unlawful acts" as stipulated in Article 1365 of the Civil Code.

However, both the Palu District Court and the Central Sulawesi High Court declared the lawsuit inadmissible (*niet ontvankelijk verklaard*) because it was deemed not to meet the formal and material elements of a civil lawsuit. The judge ruled that there was no strong evidence to show that the defendants had committed medical malpractice. In addition, the plaintiff was unable to prove a direct causal link between the isolation and his wife's death. Thus, the elements of unlawful acts were not fulfilled.

Many malpractice cases in Indonesia arise due to the weak implementation of standard operating procedures (SOPs) and the lack of clarity in the court's evidence mechanism. Judges often face difficulties in determining whether a medical action has met professional standards, due to the absence of uniform benchmarks between medical and legal institutions (Dwike et al., 2025).

The analysis of Supreme Court Decision Number 85/Pdt/2021/PT.PAL is important because it provides a clear picture of how judges interpret the elements of medical negligence and apply the principle of legal liability. Indonesian courts are still trying to strike a balance between protecting patients and defending the medical profession. This decision, therefore, can be used as an academic precedent in assessing the effectiveness of legal norms governing medical practice in Indonesia (Keristian & Triana, 2025).

Thus, this study aims to legally analyse the legal aspects of Supreme Court Decision Number 85/Pdt/2021/PT.PAL, including the judges' considerations, the application of medical professional standards, the legal relationship between doctors and patients, and its implications for the national health law system. Using a normative approach and case studies, this research is expected to provide conceptual contributions to the development of health law and patient protection reform in Indonesia.

LITERATURE REVIEW

Definition of Medical Malpractice

Now a days, the term malpractice is very popular the medical field although it is also used in other professions such as lawyers, advocates, judges, accountants, journalists /police and others. In general, malpractices is a term that is always a bad Impact, stigmatic and contrav to the rules.

Indeed, in some of the literature, the term is often used interchangeably as if the meanmg is the same. According to Creighton (1986), malpractice is considered synonymous with professional negligence

(Creighton, 2022). It is supported by the opinion of Mason and Smith (1986) where it was mentioned that malpractice is a term instant confirmation the which is increasingly used as a synonym for medical negligence (Creighton, 2022). It is submitted that the term medical malpractice is not the same as medical negligence (Mohr, 2000). All mistakes made by doctors and other health workers in both legal and ethical aspects are medical malpractice. For example, breach of discipline or intentional actions of doctors resulted in worsenmg of the patient's health. Therefore, the definition and scope of the medical malpractice is wider than medical negligence.

The term medical malpractice was first used by Sir William Blackstone in 1768. According to Sir William Blackstone, medical malpractice is (Mohr, 2000):

“That, malapraxis IS great misdemeanor and offense at common law, whether it be for curiosity or experiment or by neglect because it breaks the trust the which the party had placed in his physician and tends to the patient's destruction.”

Black Law Dictionary formulates medical malpractice as (Campbel, 1999):

“Professional misconduct or unreasonable lack of skill or failure of one rendermg professional services to exercise that degree of skill and leammg commonly applied under all the circumstances in the community by the average prudent reputable member of the profession with the result of injury, loss or damage to the recipient of Reviews those services or to Reviews those Entitled to Rely upon them.”

In the United States health care law to prove the existence of a medical malpractice action, the patient must prove the following conditions: Doctor's obligation to cany out medical care to patients Medical action must be in accordance with professional standards The medical action resulted in injuries so that the patients get compensation (Gittler et al., 1996).

Etymologically, malpractice is defined as medical actions or practices that are carried out incorrectly, do not comply with procedures, or violate legal provisions and professional codes of ethics (Susila, 2021). Meanwhile, medical malpractice is generally committed by medical personnel. Based on the Health Law, medical personnel are individuals who devote themselves to the field of health and have professional competence, including knowledge and skills obtained through medical or dental professional education, and have the authority to provide health services. Medical personnel consist of doctors (including specialists and subspecialists) and dentists (Handoyo, 2020).

Thus, medical malpractice can be understood as a form of failure on the part of a doctor to perform medical procedures in accordance with applicable standard operating procedures (SOPs). This failure may arise due to limitations in the competence or skills of the doctor, or due to negligence in the provision of health services to patients, which ultimately became a factor causing injury or harm to the patient (Hambali & Khodapanahandeh, 2014).

Medical personnel actions can be classified as medical malpractice if they contain elements of negligence, error, or are carried out intentionally in violation of the law to achieve a specific goal (Hennesy, 2004). Forms of malpractice include neglecting professional obligations, performing actions prohibited by professional oaths or legal provisions, and violating medical service standards. However, not all medical failures constitute malpractice. If the patient's injury arises from an unexpected event even though the actions were in accordance with professional standards and operational procedures, then this is considered a medical risk, not negligence (Puteri Nemie Jahn Kassim & Khadijah Mohd Najid, 2013).

According to Article 274 letter a of the Health Law, medical personnel are obliged to provide services in accordance with professional standards, service standards, operational procedure standards, and professional ethics. Meanwhile, Article 273(1)(a) guarantees legal protection for medical personnel who have fulfilled these requirements. Thus, doctors or medical personnel cannot be held liable for malpractice if their actions comply with professional standards and medical ethics, as they are entitled to legal protection in the course of their practice.

Classification of Malpractice

In health law studies, medical malpractice is generally divided into several main categories, namely (Susila, 2021):

1. Ethical Malpractice, which is a violation of the medical profession's code of ethics, such as not providing adequate information to patients or performing medical procedures without obtaining valid consent (informed consent). Examples can be found in various scientific articles discussing legal liability due to the absence of informed consent.
2. Administrative malpractice, which is a violation of internal health facility procedures or administrative provisions, for example, related to practice licences, medical personnel registration processes, supervision mechanisms, and the completeness of medical records.
3. Civil and Criminal Malpractice, namely errors or negligence in medical treatment that cause harm to patients (civil sphere) or contain criminal elements, such as negligence that causes serious injury or death.

Sanctions for Medical Malpractice in the Health Law

Medical personnel proven to have committed malpractice may be subject to sanctions in accordance with the provisions of the Health Law. Based on Article 306 of the Health Law, if medical personnel are proven to have committed a disciplinary violation, they may be subject to disciplinary sanctions in the form of (Dananjaya et al., 2019):

1. A written warning;
2. The obligation to attend education or training at a health education institution or teaching hospital that has the competence to conduct such training;
3. Temporary suspension of the registration certificate (STR);
4. Recommendation for revocation of the practice licence (SIP).

If the violation involves criminal elements, medical personnel may be subject to criminal sanctions as stipulated in Article 440 of the Health Law, which states:

1. Medical personnel or health workers who, due to negligence, cause a patient to suffer serious injury, may be punished with a maximum imprisonment of 3 years or a maximum fine of Rp250,000,000.00.
2. If such negligence causes the death of a patient, the perpetrator may be sentenced to a maximum of 5 years' imprisonment or a maximum fine of IDR 500,000,000.

If the violation involves criminal elements, medical personnel may be subject to criminal sanctions as stipulated in Article 440 of the Health Law, namely:

1. If the negligence of medical personnel causes the patient to suffer serious injury, they may be sentenced to a maximum of 3 years' imprisonment or a fine of up to IDR 250,000,000.
2. If such negligence results in the death of a patient, they may be sentenced to a maximum of 5 years' imprisonment or a fine of up to IDR 500,000,000.

In addition to being regulated in the Health Law, medical malpractice can also be prosecuted under the provisions of the Criminal Code and Law No. 1 of 2023 concerning the Criminal Code (which will come into effect in 2026).

Legal Theory and Principles

a. Theory of Legal Liability

The theory of legal liability in malpractice refers to who is responsible when losses occur in health services: the medical personnel directly, the institution (e.g. hospital), or both. International and national literature shows that the concept of liability can be independent (doctor) or vicarious liability

(institution). In Indonesian law, civil claims use Article 1365 of the Civil Code (*onrechtmatige daad*), which is the basis of liability theory (Pujiyono, 2023).

b. Prudence Principle

The principle of due care in healthcare means that medical personnel must work with a standard of care appropriate to their profession and the medical conditions at the time of treatment. If delays or failure to meet standards result in harm, this may be considered a breach of the duty of care. Clarity of the elements of negligence (negligence) is important in determining malpractice. The prudence principle is also related to the duty to obtain informed consent, maintain medical records, and maintain professional competence (Nurarafah, 2024).

c. Patient Rights and Doctor Obligations

In the context of health law, patients have rights including the right to receive quality care, the right to medical information (informed consent), and the right to legal protection if they are harmed. Doctors have an obligation to perform medical procedures in accordance with professional standards, obtain patient consent, and provide explanations of risks and alternative procedures. A study entitled "Legal Liability of Medical Personnel for Medical Actions Without the Patient's Consent (Without Informed Consent)" highlights that actions without patient consent can constitute malpractice (Zainuddin & Risdawati, 2025).

METHODS

Type of Research

This study uses a normative legal research method, which is a method that focuses on the assessment of applicable positive legal norms and their application in concrete cases (Christiani, 2016). Normative legal research is conducted by examining written legal materials, including legislation, court decisions, and relevant scientific literature (Negara, 2023). In the context of this study, a normative approach is used to examine and analyse the legal basis and considerations of the judges in Supreme Court Decision Number 85/Pdt/2021/PT.PAL relating to a case of alleged medical malpractice. With this approach, the researcher seeks to find the compatibility between legal theory, legal principles, and the practice of law enforcement in the enforcement of medical liability in Indonesia.

Research Approach

This study uses two main approaches, namely the case approach and the statute approach. The statute approach in legal research is a normative research method conducted by examining all relevant laws and regulations related to the legal issue being studied. This approach aims to understand legal norms, the consistency between regulations, and to provide legal arguments to solve problems. The case approach is carried out by examining court decisions that are directly relevant to the object of the study, namely Supreme Court Decision No. 85/Pdt/2021/PT.PAL.

Sources of Legal Material

The legal materials used in this study include:

1. Primary legal materials include legislation and court decisions that are the main sources of law. In this case, the main material studied is Supreme Court Decision No. 85/Pdt/2021/PT.PAL, Law No. 36 of 2009 concerning Health, Law No. 29 of 2004 concerning Medical Practice, the Civil Code (KUHPperdata), and the Criminal Code (KUHP).
2. Secondary legal materials consist of supporting literature such as law books, scientific journals, academic articles, and previous research results discussing the topics of medical malpractice and doctors' legal responsibilities. These materials serve to enrich theoretical

understanding and provide an academic context for the legal interpretations used in the research.

3. Tertiary legal materials include supporting sources such as legal dictionaries, legal encyclopaedias, and regulation indexes that help explain the legal terms or concepts used in the analysis.

Legal Material Analysis Techniques

The analysis technique used in this research is descriptive-qualitative analysis. This analysis is carried out by describing the contents of the legal materials that have been collected, then relating them to the legal issues being studied

RESULTS

Supreme Court Decision Number 85/Pdt/2021/PT.PAL

The medical malpractice case in Supreme Court Decision No. 85/Pdt/2021/PT.PAL began when the plaintiff, as a patient or family member of a patient, filed a lawsuit against the defendant, namely medical personnel and a hospital suspected of negligence in medical treatment. Based on the legal facts revealed, the plaintiff assessed that the medical actions taken by the doctor and the hospital deviated from standard operating procedures (SOP) and caused physical and psychological harm to the patient. The chronology began with a medical treatment process that did not comply with professional standards, in which the patient experienced serious complications after undergoing certain medical procedures. This then gave rise to allegations that a professional error had occurred, resulting in the patient suffering losses, so that a civil lawsuit was filed on the basis of an unlawful act (*onrechtmatige daad*) as regulated in Article 1365 of the Civil Code.

In the position of the parties, the plaintiff acted as the party who suffered losses as a result of medical actions performed by the defendant, namely the doctor and hospital where the medical actions were performed. The plaintiff demanded that the defendant be held legally responsible for the negligence that occurred and requested compensation for material and immaterial damages. On the other hand, the defendant denied the allegations of malpractice on the grounds that the medical treatment was performed in accordance with professional standards and applicable medical procedures, and that the complications experienced by the patient were unavoidable medical risks. In their defence, the defendants also emphasised that all procedures had been carried out with the patient's informed consent, and that there had been no intent or negligence beyond the limits of professional responsibility.

In terms of legal facts, the panel of judges found inconsistencies between the medical actions taken and the operational standards that should have been applied. The plaintiff successfully presented evidence in the form of medical records, expert witness statements, and treatment reports showing that the medical treatment was not carried out with sufficient care. During the trial, it was revealed that several stages of treatment were carried out without further examination or close supervision, thereby increasing the risk of complications for the patient. These facts formed the basis for the panel of judges to consider whether the defendant's actions could be categorised as negligence that constituted an unlawful act.

The legal claims (*petitum*) filed by the plaintiff included several points, namely:

1. Requesting the court to declare that the defendant's actions constituted medical malpractice that violated the law;
2. Requesting the court to order the defendant to pay compensation for the losses suffered by the plaintiff, both material and immaterial;
3. Requesting the court to order the defendant to issue a public apology for the errors in providing medical services. In addition, the plaintiff also requested that the court establish the professional responsibility of the hospital as the party that employed the negligent medical personnel.

The panel of judges in its deliberations assessed that although there were allegations of negligence, the proof of malpractice must be based on concrete legal facts and scientific evidence that can demonstrate a causal relationship between medical actions and patient harm. Based on an analysis of the evidence and expert witness testimony, the judges considered whether the complications that occurred were a direct result of the doctor's negligence or an unavoidable medical risk. This ruling is significant because it clarifies the distinction between professional negligence and legitimate medical risks, and reaffirms the principle of prudence in medical practice. Thus, this case sets an important precedent in Indonesian health law jurisprudence, particularly in determining the standard of proof for medical malpractice cases in civil courts.

The Judges' Considerations in Supreme Court Decision Number 85/Pdt/2021/PT.PAL

In the decision, the judges first examined the procedural and normative aspects of the case, namely that the lawsuit was filed by the plaintiff against medical personnel and/or hospitals on the basis of unlawful acts (PMH). The panel of judges considered that in order to prove medical malpractice and determine civil liability, it must be proven that there was negligence or a violation of medical professional standards, as well as the resulting losses and the causal relationship between the two. This approach is in line with the basic principles of Indonesian civil law, which requires proof of four main elements in a claim for damages, namely: (1) the existence of an unlawful act; (2) the occurrence of damage; (3) a direct causal relationship; and (4) a valid causal relationship between the act and its consequences.

Furthermore, the panel of judges examined medical professional standards and various regulations applicable to the provision of health services. In its considerations, the judges emphasised that medical personnel have an obligation to practise medicine in accordance with professional standards, professional service standards, standard operating procedures (SOPs), and professional ethics, as stipulated in Law No. 36 of 2009 concerning Health, Law No. 29 of 2004 concerning Medical Practice, and provisions established by medical professional organisations (Arifin, 2022).

The judge then assessed a number of important aspects, such as whether the medical actions taken by the defendant had obtained the patient's informed consent, whether adequate medical supervision and examination had been carried out, and whether the medical records had been properly documented. This consideration is in line with the academic view that in medical malpractice cases, judges often refer to professional regulations such as the Indonesian Medical Council (KKI) and the national medical service standard system as benchmarks (Andriyawan et al., 2024).

Furthermore, the panel examined the elements of negligence and legitimate medical risk. The judge distinguished between professional negligence that can be held legally accountable and medical complications that are unavoidable even though the actions were performed in accordance with standards. This means that if medical personnel have carried out procedures in accordance with professional standards and applicable regulations, then unexpected medical outcomes are not automatically categorised as malpractice. However, if a violation of standards is found profession, such as failure to follow up on examinations, negligence in supervision, or disregard for clear medical indications, then the element of negligence is considered to have been fulfilled. This consideration emphasises that not all medical failures constitute malpractice, but must be supported by concrete evidence that medical personnel have acted outside professional standards.

The judge also highlighted the aspects of causality and the burden of proof. In this case, the plaintiff must be able to prove that the losses suffered were a direct result of the defendant's medical actions that deviated from professional standards. Conversely, the defendant has the right to defend themselves by stating that the complications that occurred were reasonable medical risks and had been previously communicated to the patient. The panel then assessed the expert witness testimony and medical records to determine whether there had been a violation of medical standards or procedures. If the plaintiff's evidence was not strong, the lawsuit could be dismissed, and the defendant's legal liability would be deemed unproven.

The panel of judges emphasised the importance of professional accountability and the protection of patient rights. Medical services must be provided in accordance with professional standards to

guarantee patients' rights to safe and quality care. Doctors and health institutions are legally liable if they perform actions that are beyond the bounds of professional reasonableness. This ruling sets an important precedent in reinforcing legal certainty that medical actions that comply with standards cannot be sued as malpractice simply because the results are unsatisfactory, while actions that deviate from concrete standards can give rise to legal and ethical liability. A number of follow-up studies also confirm that such judicial considerations play an important role in shaping the legal framework for the settlement of medical malpractice disputes in Indonesia.

DISCUSSION

Consistency of Judicial Considerations with Health Law Doctrine

Legally, the judge's considerations in Supreme Court Decision No. 85/Pdt/2021/PT.PAL show consistency with Indonesian health law doctrine, particularly in relation to the concepts of negligence and legal liability. In the decision, the panel of judges emphasised that the proof of medical malpractice must satisfy three main elements, namely: (1) there is negligence or violation of medical professional standards; (2) there is actual harm suffered by the patient; and (3) there is a direct causal relationship between the actions of the medical personnel and the harm suffered.

This approach is in line with the provisions of Law No. 36 of 2009 concerning Health and Law No. 29 of 2004 concerning Medical Practice, which explicitly require medical personnel to provide services in accordance with professional standards and medical ethics. In addition, the judge also referred to the *lex artis ad hoc* doctrine, which is a principle that assesses a doctor's actions based on the standards of expertise and medical practice applicable at the time the action was taken, not based on the final results achieved (Kurnia, 2020). A doctor cannot be blamed for treatment results that do not meet the patient's expectations if all medical procedures have been carried out correctly and in accordance with professional standards (Tri Wahyuni, 2022). The judge's consideration using this approach reflects the application of the *prudentia* principle, whereby every medical action must be evaluated based on the implementation process and compliance with professional standards, not solely on the final outcome.

Assessment of the Substantive and Formal Justice of the Decision

The aspect of formal justice, this decision is considered to have fulfilled the provisions of civil procedural law as stipulated in the HIR and applied the *audi et alteram partem* principle, which guarantees the rights of both parties to be heard in a balanced manner. The panel of judges gave proportional opportunities to both the plaintiff and the defendant to present evidence, witnesses, and expert testimony (Yudyaningrum, 2022). From a substantive perspective, the judges' considerations reflect objective justice because they place the responsibility of medical personnel within the framework of professionalism, rather than based on emotions or sympathy for the patient's suffering. Thus, the judges did not immediately grant the lawsuit simply because there was harm, but first ensured that the medical actions taken had deviated from professional standards.

Substantive justice in medical malpractice cases must maintain a balance between the patient's right to legal protection and the doctor's right to professional protection. Judges in such cases are required not only to uphold the law textually, but also contextual, taking into account the specific characteristics of the therapeutic relationship between doctors and patients. Therefore, this ruling can be said to have successfully combined the application of positive law with medical ethical values, thereby reflecting justice that is alive in society.

Analysis of Civil Liability and Professional Liability

In the context of civil liability, the judge examined whether the doctor or hospital had committed an unlawful act as referred to in Article 1365 of the Civil Code, namely any action that causes loss due to error or negligence. The judge assessed the evidence of a causal relationship between the medical action and the patient's loss through medical records, expert testimony, and the diagnostic procedures performed. If a violation of professional standards is proven, the doctor may be held civilly liable in

the form of compensation (Komala et al., 2024). The civil liability of doctors arises from contractual relationships and unlawful acts in medical practice.

Meanwhile, professional responsibility relates to the ethical and disciplinary obligations of doctors to their professional standards, as supervised by the Indonesian Medical Council (KKI) and the Indonesian Medical Disciplinary Honorary Council (MKDKI). In this ruling, the judge not only considered the aspect of compensation but also assessed whether the doctor's actions reflected the fulfilment of professional responsibility. If a violation of the medical code of ethics is found, even if it is not legally proven as malpractice, it can still be the basis for disciplinary sanctions. This assessment demonstrates the alignment between formal legal mechanisms and ethical-professional mechanisms applicable in the medical world.

Analysis of Criminal Liability

In addition to civil and professional aspects, the criminal liability of doctors is also an important dimension in assessing alleged medical malpractice in Supreme Court Decision No. 85/Pdt/2021/PT.PAL. In the context of criminal law, a doctor can be held liable if their actions or negligence contain criminal elements, as stipulated in Articles 359 and 360 of the Criminal Code. Article 359 of the KUHP states that "Any person who, through negligence, causes the death of another person shall be punished with imprisonment for a maximum of five years or imprisonment for a maximum of one year." Meanwhile, Article 360 paragraph (1) of the Criminal Code stipulates that "Anyone who, due to negligence, causes another person to suffer serious injury shall be punished with a maximum imprisonment of five years or a maximum confinement of one year."

In legal considerations, judges do not automatically categorise a doctor's negligence as a criminal act. Judges assess that criminal elements are only fulfilled if there is gross negligence that results in harm or death to the patient, and not just ordinary professional errors (Siti Zubaidah Ismail, 2011). This approach is in line with the principle of error in persona non semper crimen facit, which states that not every mistake or failure in medical practice constitutes a criminal act, but may be an unavoidable medical risk. The enforcement of criminal law against doctors must be cautious so as not to hinder the professional freedom of doctors in carrying out their duties.

In this ruling, the judge used a proportional approach between law and professional ethics, considering that criminal charges can only be imposed if there is clear and serious intent or negligence that violates the law. Criminal elements in medical malpractice must be strictly proven, including the existence of a direct causal relationship between the wrongful medical action and the resulting consequences (BA, 2011). In this case, the judge ruled that the doctor's actions did not show intent or gross negligence that caused death, but were more accurately categorised as professional misconduct that could be resolved in the disciplinary or civil sphere (Simanjuntak et al., 2024).

Furthermore, in the context of the hospital's corporate criminal liability, the judge also highlighted whether the health institution was partly responsible for the actions of the doctor who was its employee. Based on the principle of vicarious liability, the hospital could be held criminally liable if it was proven that it did not provide adequate facilities, supervision, or service standards, thereby causing fatal consequences for the patient. However, in this case, the panel of judges did not find strong evidence that the hospital was directly negligent or neglected its obligations to provide health facilities and medical supervision procedures. Therefore, the hospital cannot be held directly criminally liable, although it still bears moral and administrative responsibility to conduct an internal evaluation (Islam, 2013).

From this analysis, it can be concluded that the criminal liability of doctors is *ultimum remedium*, which is the last resort if ethical, administrative, and civil mechanisms cannot provide justice. This approach is in line with the principle in health criminal law that criminal sanctions should only be used for serious violations of medical legal obligations that cause serious harm to patients. Judges must be able to distinguish between "professional negligence" and "criminal negligence" so that the application of the law continues to uphold the principles of justice and legal certainty for medical personnel. Thus, in Supreme Court Decision No. 85/Pdt/2021/PT.PAL, the judge has emphasised a

clear distinction between criminal and professional liability, while strengthening the principle of legal protection for doctors who act in accordance with professional standards and medical ethics.

CONCLUSION

The judges' legal considerations demonstrate the application of the principle of due care and the *lex artis ad hoc* doctrine, whereby medical actions are assessed based on their compliance with professional standards at the time the action was performed. Thus, not every medical outcome that does not meet expectations can be immediately categorised as malpractice, as long as the doctor has performed the procedure in accordance with professional standards and the medical code of ethics.

Medical malpractice can only be proven if there is a clear violation of professional standards, the patient has suffered harm, and there is a clear causal relationship between the medical treatment and the harm suffered. In this case, the judge ruled that the plaintiff had failed to provide concrete evidence of this causal relationship, and therefore the lawsuit was dismissed.

The forms of legal liability of doctors are divided into three main areas, namely civil, professional, and criminal. Civil liability arises if there is a violation of the principle of *onrechtmatige daad* as stipulated in Article 1365 of the Civil Code. Professional liability relates to violations of medical discipline or ethics, which fall under the authority of the Indonesian Medical Disciplinary Council (MKDKI). Criminal liability is an *ultimum remedium* and can only be imposed if there is an element of intent or gross negligence that causes serious injury or death to the patient.

This ruling is an important precedent in Indonesia's health law system because it establishes a clear distinction between medical risk and professional negligence. The judge successfully balanced the protection of patients' rights and the protection of the medical profession, resulting in a proportionate ruling that reflects a sense of justice.

Conflict of Interest

All the authors declare that there are no conflicts of interest

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