

UNIVERSA

International Journal of Socio-legal, Economics, Science and Educational Technology

Volume 1, Issue 1, January 2026



Healthcare Negligence Resulting in Permanent Disability: A Juridical Analysis of Hospital Legal Liability

*Kelalaian Tenaga Kesehatan yang Mengakibatkan Cacat Permanen:
Analisis Yuridis terhadap Tanggung Jawab Hukum Rumah Sakit*

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Submitted : 20 February 2026

Revision : 21 February 2026

Accepted : 22 February 2026

Abstract

This study aims to analyze the forms and legal bases of hospital liability for negligence in patient care that results in permanent disability. The research employs a normative juridical approach through the examination of statutory regulations and the analysis of legal facts occurring in practice. The findings indicate that hospital liability is expressly regulated under Article 46 of Law Number 44 of 2009 concerning Hospitals and Article 193 of Law Number 17 of 2023 concerning Health, which positions hospitals as responsible for negligence committed by medical personnel within an employment relationship. From a civil law perspective, liability may be grounded in Articles 1365, 1366, and 1367 of the Civil Code (KUHPperdata) concerning unlawful acts and liability for the acts of others, as well as Article 1371 of the Civil Code regarding compensation for injury or permanent disability. From a criminal law perspective, negligence resulting in serious injury or permanent disability may be associated with Article 360 of the Criminal Code (KUHP). Accordingly, patients are entitled to pursue administrative, civil, and criminal remedies to obtain legal protection and restitution.

Keywords: Healthcare Professional Negligence; Hospital Liability; Permanent Disability

Abstrak

Penelitian ini bertujuan untuk menganalisis bentuk dan dasar tanggung jawab rumah sakit atas kelalaian dalam penanganan pasien yang berujung pada kecacatan permanen. Penelitian ini menggunakan pendekatan yuridis normatif melalui kajian peraturan perundang-undangan dan analisis fakta hukum yang terjadi di lapangan. Hasil penelitian menunjukkan bahwa tanggung jawab rumah sakit secara tegas diatur dalam Pasal 46 Undang-Undang Nomor 44 Tahun 2009 tentang Rumah Sakit dan Pasal 193 Undang-Undang Nomor 17 Tahun 2023 tentang Kesehatan, yang menempatkan rumah sakit sebagai pihak yang bertanggung jawab atas kelalaian tenaga medis dalam hubungan kerja. Dari aspek perdata, pertanggungjawaban dapat didasarkan pada Pasal 1365, 1366, dan 1367 KUHPperdata mengenai perbuatan melawan hukum dan tanggung jawab atas perbuatan orang lain, serta Pasal 1371 KUHPperdata terkait ganti rugi atas luka atau cacat. Dari aspek pidana, kelalaian yang menyebabkan luka berat atau cacat permanen dapat dikaitkan dengan Pasal 360 KUHP. Dengan demikian, pasien berhak menempuh upaya hukum administratif, perdata, maupun pidana untuk memperoleh perlindungan dan pemulihan hak.

Kata Kunci: Kelalaian Tenaga Kesehatan; Tanggung Jawab Rumah Sakit; Cacat Permanen



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INTRODUCTION

In the context of medical practice and standard medical procedures, the concept of informed consent is recognized as a mechanism through which physicians or healthcare personnel convey information regarding medical interventions, with the purpose of informing patients about the potential benefits and risks of the proposed treatment. Meanwhile, negligence in a medical procedure, within the legal domain, is referred to as culpa. Culpa is a juridical concept whose application in medical practice has not yet achieved a uniform definition, although there is general agreement regarding legal accountability, particularly in its comparison to malpractice, both of which may result in legally cognizable harm.¹

Cases of medical malpractice in Indonesia frequently emerge as an “iceberg phenomenon” that is difficult to resolve comprehensively.² A recent prominent incident involved the negligence of a nurse that resulted in the amputation of a child’s finger. This incident occurred on 4 February 2023, when an eight-month-old infant was undergoing treatment at Muhammadiyah Hospital Palembang due to a high fever. At that time, the patient’s parents requested assistance from a nurse because of an obstruction in the intravenous (IV) line. However, while attempting to repair the line, the nurse—due to a lack of vigilance—accidentally severed the patient’s little finger.³

Negligence by healthcare personnel resulting in permanent disability in the form of the loss of a limb gives rise to claims of criminal liability as a legal mechanism to ensure certainty and protection for the patient as the victim. The patient, as the injured party, is entitled to seek compensation for such losses through both criminal and civil proceedings. Permanent disability arising from negligence constitutes an incident that must be prioritized through thorough attention and the safeguarding of victims’ rights.

The primary priority of healthcare personnel in carrying out their responsibilities is to ensure patient safety and well-being.⁴ Healthcare personnel are individuals who dedicate themselves to the provision of healthcare services. They have acquired competence and expertise through formal education in the relevant field. In certain specific categories, special authorization is required to practice medical services. Hospitals, as institutions providing medical services, operate through the roles of physicians and other supporting medical staff. One of the principal functions of every healthcare professional is to optimize the level of public health and societal well-being.⁵

The legal accountability of healthcare personnel for all actions undertaken in the provision of medical services to patients is regulated under Article 193 of Law Number 17 of 2023 concerning Health. The Article stipulates that hospitals are legally responsible for all adverse consequences arising from negligence committed by medical personnel working within such facilities. This means that if negligence or procedural errors are committed by healthcare

1 Achmad, G. B. *Praktek Penyelenggaraan Rumah Sakit Kaitannya Dengan Perlindungan*, Lex Privatum, Vol. 10, No 6, (2022).

2 Muntaha, H. 2022. *Hukum Pidana Malpraktik: Pertanggungjawaban dan Penghapus Pidana*. (Jakarta: Sinar Grafika).

3 Kompas.Com, 2023, Saat Kasus Jari Bayi yang Terpotong di Palembang Berakhir Damai, <https://www.kompas.com/tren/read/2023/02/12/122900765/saat-kasus-jari-bayi-yang-terpotong-perawat-di-palembang-berakhir-damai-?page=all>, diakses pada 19 Januari 2026 Pukul 19.45 WIB.

4 Novianto, W. Penafsiran Hukum Dalam Menentukan Unsur-Unsur Kelalaian Malpraktek Medik (Medical Praktek), *Yustisia*, 4(2), (Agustus 2015).

5 Annisa, Dhita, Wahyudi. Analisis Informed Consent Terhadap Perlindungan Hukum Tenaga Kesehatan Di Rumah Sakit Umum Daerah Kota Bandung. *Res Nullius Law Journal*, 2(1), (Maret 2020).

personnel, such as nurses, the hospital institution bears the legal responsibility.⁶

Although the law expressly stipulates that hospitals are legally liable for all losses caused by the negligence of healthcare personnel within the hospital, in practice, there remains uncertainty and difficulty for patients and members of the public in filing compensation claims. This is due to several factors that have not been clearly and comprehensively regulated, such as the employment status of healthcare personnel—whether they are hospital employees or otherwise—the unclear distinction between the therapeutic agreement with the physician and the contractual relationship with the hospital, and the absence of implementing regulations detailing the forms of healthcare negligence attributable to the hospital, the mechanisms for compensation settlement, and the types of sanctions to be borne by the hospital.⁷

Issues concerning hospital liability for the negligence of healthcare personnel have been widely discussed in various legal studies. Adiana et al. affirm that hospitals are liable for patient losses pursuant to Article 46 of Law Number 44 of 2009, highlighting civil, criminal, administrative, and professional ethical aspects, however, their discussion remains limited to a general normative framework and the evidentiary challenges in proving negligence.⁸ Similar analyses are found in studies on hospital legal liability that tend to be descriptive and emphasize institutional obligations without providing an in-depth examination of severe harm characteristics, such as permanent disability.⁹ Arifin, through a normative juridical approach, links hospital liability to Article 1367 of the Civil Code, yet the focus remains on general civil liability within healthcare services.¹⁰

Meanwhile, Budiman et al. underscore the absence of explicit regulation concerning malpractice in Indonesian positive law and situate hospital liability within the normative framework of the Hospital Law.¹¹ Wulandari et al., through a case study of a court decision, demonstrate the application of the concept of corporate liability in medical disputes; however, their analysis is limited to a single case and does not formulate a comprehensive construction of the limits and forms of liability when negligence results in permanent disability.¹² Therefore, there remains room for further research to systematically examine the construction of hospital liability for negligence in patient care resulting in permanent disability, through a normative juridical approach that analyzes statutory regulations while integrating an examination of legal facts in practice.

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- 6 Putra, I. P. H. S. Pertanggungjawaban Perawat Terhadap Pasien Dalam Pelayanan Kesehatan Di Rumah Sakit. *Collegium Studiosum Journal*, 8(2), (Desember 2025).
 - 7 Wahyudi, S. Tanggung Jawab Rumah Sakit Terhadap Kerugian Akibat Kelalaian Tenaga Kesehatan Dan Implikasinya. *Jurnal dinamika hukum*, 11(3), (September 2011).
 - 8 I Nyoman Adiana, Ida Bagus Anggapurana Pidada, and Kadek Mery Herawati, “Tanggung Jawab Hukum Rumah Sakit Terhadap Kelalaian Tenaga Medis Yang Mengakibatkan Pasien Cacat Permanen,” *AL-DALIL: Jurnal Ilmu Sosial, Politik, Dan Hukum* 1, no. 3 (August 29, 2023): 61–67, <https://doi.org/10.58707/aldalil.v1i3.560>.
 - 9 I Nyoman Adiana, Ida Bagus Anggapurana Pidada, and Kadek Mery Herawati, “Pertanggungjawaban Hukum Rumah Sakit Terhadap Kelalaian Tenaga Medis Yang Mengakibatkan Pasien Cacat Permanen,” *Jurnal Riset Multidisiplin Dan Inovasi Teknologi* 2, no. 01 (November 19, 2023): 148–60, <https://doi.org/10.59653/jimat.v2i01.378>.
 - 10 Dani Amalia Arifin, “Kajian Yuridis Tanggung Jawab Perdata Rumah Sakit akibat Kelalaian dalam Pelayanan Kesehatan,” *Jurnal Idea Hukum* 2, no. 1 (March 10, 2016), <https://doi.org/10.20884/1.jih.2016.2.1.31>.
 - 11 Arief Budiman, Rizka Rizka, and Absori Absori, “Juridical Analysis of Hospital Liability for Actions of Doctors Performing Medical Malpractice,” *SOEPR* 9, no. 1 (June 30, 2023): 95–101, <https://doi.org/10.24167/sjhk.v9i1.10061>.
 - 12 Enina Wika Vetricha Wulandari, Handoyo Prasetyo, and Handar Subhandi Bakhtiar, “Hospital Legal Liability In Medical Dispute Resolution (Case Study Of South Jakarta District Court Decision Number 484/PDT.G/2013/PN.JKT.Sel),” *International Journal Of Humanities Education and Social Sciences (IJHESS)* 3, no. 3 (December 28, 2023), <https://doi.org/10.55227/ijhess.v3i3.789>.

Method

The method employed in this study adopts a normative juridical approach, which is a type of research conducted by examining statutory regulations and analyzing legal facts occurring in practice.¹³ This study utilizes two sources of law, namely primary and secondary legal materials. Primary legal materials are derived directly from various statutory regulations, including Law Number 17 of 2023 concerning Health, Law Number 29 of 2004 concerning Medical Practice, Law Number 44 of 2009 concerning Hospitals, Law Number 23 of 1992 concerning Health, the Civil Code (Kitab Undang-Undang Hukum Perdata/KUHPerdata), and the Criminal Code (Kitab Undang-Undang Hukum Pidana/KUHP).¹⁴

RESULTS AND DISCUSSION

Forms of Healthcare Personnel Negligence

Negligence by healthcare personnel essentially reflects a failure to comply with professional standards and standard operating procedures that must be observed during medical treatment. Such negligence varies widely and may arise at nearly every phase of healthcare services, from diagnosis and therapeutic intervention to post-intervention monitoring. One frequently identified form of negligence is diagnostic error (misdiagnosis), a situation in which a physician fails to establish an accurate diagnosis due to inadequate examination, insufficient evaluation of symptoms, or incompetence in analyzing laboratory findings and other supporting examinations, ultimately resulting in harm to the patient.

Diagnostic errors may lead to fatal consequences, such as the administration of inappropriate therapy, delays in crucial medical procedures, or exacerbation of the patient's condition, ultimately causing physical as well as psychological harm. In addition to diagnostic errors, another common manifestation of negligence in medical practice is medication errors. Such incidents may include incorrect dosage determination, inappropriate selection of therapeutic agents, failure to consider potential drug interactions, or administrative errors in documenting a patient's medical history.

Incidents involving incorrect medication administration constitute one of the most prevalent forms of negligence in healthcare services, involving not only physicians but also nurses and pharmacists. The consequences are often severe, ranging from hypersensitivity reactions and acute toxicity to organ dysfunction leading to emergency conditions. Hospitals are therefore required to implement rigorous pharmacological management protocols to minimize such potential risks.

Negligence may also arise from inadequate monitoring of a patient's health status. In certain cases, healthcare personnel fail to conduct routine observations or disregard changes in vital parameters that should serve as early warning signs of complications. For example, a patient who has recently undergone surgery requires close monitoring due to the potential risks of infection, hemorrhage, or respiratory dysfunction. If healthcare personnel negligently fail to recognize early signs and do not act promptly, the patient's condition may deteriorate suddenly.

Such insufficient monitoring is regarded as a violation of healthcare facility procedural standards, as every post-procedural intervention is governed by binding protocols. Another form of negligence manifests as therapeutic interventions that deviate from professional

13 Zainuddin Ali, *Metode Penelitian Hukum* (Sinar Grafika, 2021).

14 Kemalasari Ni Putu Yuliana, Putra I. Putu Harry. Hilangnya Bagian Tubuh Pasien yang Mengakibatkan Kecacatan Permanen Akibat Kelalaian Medis dalam Aspek Pertanggungjawaban Hukum. *Read Kertha* 06 No. 2 (Januari 2024).

standards or constitute malpractice. This occurs when healthcare personnel apply prohibited techniques, lack essential qualifications, or disregard mandatory recommendations. Examples include surgical procedures performed by physicians without certified proficiency or the use of medical instruments without adherence to established standard protocols.

Such deviations not only contravene professional ethical codes but also endanger patient safety and well-being, thereby triggering more serious legal implications. Although the negligence may be committed individually by medical personnel, the hospital institution may still be held legally accountable. This concept aligns with the doctrine of vicarious liability, which positions the hospital as responsible for the actions of medical staff under its supervision.¹⁵

Before legal liability for a case of medical malpractice can be asserted, the juridical consequences of the act must first be clearly identified. An act may be categorized as malpractice in medical practice when certain forms of negligence are present. Criminal medical malpractice refers to conduct that violates criminal law norms, thereby placing the perpetrator in a position legally equivalent to that of other conventional offenders. Such negligence may be intentional (*dolus*), and under the Criminal Code (*Kitab Undang-Undang Hukum Pidana/KUHP*) may be associated with Article 382 concerning fraud, Article 344 concerning homicide, Articles 348 and 349 concerning abortion, Article 227 concerning concealment of lineage, Article 359 concerning negligence resulting in death, and Article 360 concerning negligence resulting in serious injury or permanent disability.¹⁶

Civil medical malpractice refers to circumstances in which a medical professional fails to fulfill professional responsibilities. Key indicators include professional negligence, therapeutic interventions carried out without the consent of the patient or their representative resulting in material or immaterial harm, and violations of legal norms, such as procedures conducted without explicit consent (lack of consent) and breaches of therapeutic trust (breach of trust). Administrative malpractice in healthcare practice refers to acts committed by individuals who lack professional qualifications or valid practice licenses, such as registration certificates or similar authorizations. In exercising its authority in the healthcare sector, the government is responsible for regulating and supervising compliance with such administrative requirements.¹⁷

Legal Basis of Hospital Liability

The legal foundation of hospital liability within the Indonesian judicial system is robust and comprehensive, particularly given the hospital's role as a public service entity that directly affects patient safety. Law Number 17 of 2023 concerning Health, which replaces and refines previous regulatory provisions, provides a more integrated juridical framework for the administration of healthcare services, including hospital operational standards, mandates for the protection of patient safety, and procedures for accountability in cases of medical negligence. The Medical Practice Law further sets out clear directives regarding professional standards, ethical conduct, and disciplinary sanctions for healthcare personnel.¹⁸

The affirmation of hospital liability underscores that the scope of responsibility extends to management aspects, the quality and competence of healthcare personnel, medical equipment,

15 Kartika Ningsih, et al. Analisis Yuridis Terhadap Tanggung Jawab Rumah Sakit Atas Kelalaian Tenaga Medis. *Jurnal Kolaboratif Sains* 8 (11), (November 2025)

16 Ramadhani, S. S. Urgensi Payung Hukum Tindak Pidana Medis dalam Upaya Penyelesaian Sengketa Medis. *Jatijajar Law Review*, 1(2), (January 2023).

17 Riska Andi Fitriano, Budi Setyanto, and Rehnalemken Ginting, Penegakan Hukum Malpraktik Melalui Pendekatan Mediasi Penal, *Yustisia Jurnal Hukum*, Vol. 5, No. 1, (April 2016)

18 Zaqy, Alodya Pramiswari. Pertanggungjawaban Pidana Kasus Malpraktik Oleh Dokter Dalam Perspektif Hukum Acara Pidana Pada Tahap Penyidikan Dan Pembuktian. *Jurnal Kertha Wicara*, vol. 16. no. 1. (2026).

and the administrative framework that must ensure optimal patient protection. This legal foundation explicitly positions hospitals as legal subjects obligated to provide healthcare services in accordance with professional ethical codes and established procedural standards. In social life, law functions as a binding instrument that regulates relationships among individuals, community groups, institutions, and the state itself.¹⁹

From the perspective of civil law, hospital accountability is closely related to the provisions of the Civil Code (Kitab Undang-Undang Hukum Perdata/KUHPerdata) concerning breach of contract (*wanprestasi*) and unlawful acts (*onrechtmatige daad*). The juridical relationship between a patient and a healthcare institution arises through a civil contract, whether explicitly or implicitly formed, when a patient seeks medical services. If a hospital fails to fulfill its contractual obligations—such as by not providing care in accordance with professional standards or by permitting medical practitioners to operate below acceptable standards—it may be classified as having committed a breach of contract.²⁰

Such breach of contract may take the form of failure to fulfill promised obligations, performance inconsistent with contractual terms, or delay in action resulting in harm to the patient. Meanwhile, the concept of *onrechtmatige daad* is highly relevant in cases of negligence by healthcare professionals. This concept refers to conduct that violates statutory provisions, infringes upon the rights of others, or deviates from the perpetrator’s legal obligations. Even in the absence of an explicit contract between the patient and the medical personnel, negligence resulting in harm may still give rise to civil liability through the mechanism of *onrechtmatige daad*.

The Medical Practice Law also provides a normative foundation for the accountability of medical personnel in delivering healthcare services. The regulation obliges physicians and other medical personnel to comply with professional standards, service standards, and the medical code of ethics. In the event of a violation of these standards, not only the individual medical professional but also the hospital as an institutional entity may be held accountable, given its duty to supervise and ensure service quality. Accordingly, errors committed by medical personnel under the auspices of a hospital may constitute grounds for the application of *vicarious liability*, namely, the indirect responsibility of the employer for the acts of its employees.²¹

To clarify the normative framework governing hospital liability, the principal legal bases and their scope of regulation are summarized in Table 1.

Table 1. Legal Basis of Hospital Liability in Indonesian Law

Legal Instrument	Scope of Regulation	Relevance to Hospital Liability
Law No. 17 of 2023 concerning Health	Regulation of healthcare administration, hospital operational standards, and patient safety obligations	Establishes hospitals’ legal responsibility for negligence committed by healthcare personnel
Law No. 29 of 2004 concerning Medical Practice	Professional standards, medical ethics, and disciplinary sanctions	Forms the basis for evaluating professional misconduct and institutional supervision duties

19 Wahyudi, Wulandari Wirawan Ayu. Perlindungan Hukum Masyarakat Terhadap Kewajiban Vaksinasi Covid 19 Dalam Rangka Penanggulangan Pandemi Corona Virus Disease 19. Vol. 4. no. 1. (January 2022).

20 Wahyudi, Suntana Ija. Comparison Of Legal Maxims in Common Law and Islamic Law: Similarities and Differences in Dispute Resolution. Jurnal Hukum dan Peradilan, Vol. 14, No. 2, (July 2025).

21 Perangin-Angin, T. A. et al. Mediation as an Alternative to Legal Dispute Resolution in Health Services in Hospitals. JUSTISI, 11(1), (January 2025).

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Law No. 44 of 2009 concerning Hospitals	Hospital governance, management obligations, and service standards	Reinforces institutional accountability in healthcare delivery
Civil Code (KUHPperdata)	Breach of contract (<i>wanprestasi</i>) and unlawful acts (<i>onrechtmatige daad</i>)	Provides civil liability mechanisms for compensation claims
Criminal Code (KUHP)	Criminal provisions related to negligence and harm	Enables criminal liability in cases of serious negligence resulting in injury or death

Source: by Author

As shown in Table 1, hospital liability in Indonesia is constructed upon an integrated legal framework encompassing health law, medical practice regulations, hospital governance, and general civil and criminal law provisions, thereby affirming the hospital's position as a legal subject responsible both directly and vicariously for negligence occurring within its institutional domain.

Hospital Liability and Legal Remedies for Patients Victimized by Healthcare Negligence Resulting in Permanent Disability

Hospital liability in healthcare services encompasses professional, ethical, civil, administrative, and criminal dimensions. Hospitals function not only as providers of medical services but also as legal institutions obligated to ensure patient safety. The Hospital Law and related health regulations establish a normative framework requiring that every medical intervention adhere to professional standards and standard operating procedures. These regulations aim to maintain institutional stability, including supervision of healthcare personnel, adequacy of facilities and infrastructure, and implementation of risk management systems. Through sound governance and continuous evaluation mechanisms, the risk of negligence leading to serious consequences, including permanent disability, can be minimized.²²

When healthcare negligence results in permanent disability, the hospital must conduct a comprehensive internal investigation to identify the root cause of the incident. This process is essential to determine whether the harm resulted from individual error, systemic failure, or weak institutional oversight. If negligence is proven to have occurred within an employment or supervisory relationship, the hospital may be held liable under the principle of *vicarious liability*. Article 46 of the Hospital Law affirms that hospitals are responsible for losses arising from the negligence of medical personnel operating within their institutional authority. Thus, such responsibility is not merely moral but carries binding legal consequences under both civil and criminal law.²³

From a civil law perspective, hospital liability may arise from breach of contract (*wanprestasi*) or unlawful acts (*onrechtmatige daad*).²⁴ Breach of contract occurs when a contractual relationship—whether explicit or implicit—exists between the patient and the hospital, and the hospital fails

22 Alhumaira, N., & Renaldy, S. Perlindungan hukum terhadap rumah sakit sebagai upaya melindungi kerahasiaan data medis pasien yang diminta oleh aparat penegak hukum dalam perspektif hukum positif. *Jurnal Penegakan Hukum Indonesia*, Vol. 4, No. 1 (April 2023).

23 Adiana, I Nyoman, et al. Pertanggungjawaban Hukum Rumah Sakit Terhadap Kelalaian Tenaga Medis Yang Mengakibatkan Pasien Cacat Permanen. *Jurnal Riset Multidisiplin dan Inovasi Teknologi*, Vol. 2, No. 01, (January 2024).

24 Satria, Beni. Tanggung Jawab Hukum Rumah Sakit Akibat Kelalaian Tenaga Medis. *Jurnal Tata Kelola Hukum*, vol. 8. no. 2. (February 2024).

to fulfill its obligations in accordance with established service standards.²⁵ Meanwhile, an unlawful act under Article 1365 of the Civil Code (KUHPPerdata) refers to conduct that violates legal provisions and causes harm due to fault. In the medical context, negligence such as inadequate patient monitoring or the use of substandard equipment may constitute an unlawful act. These two legal bases provide patients with avenues to claim compensation for both material and immaterial damages.²⁶

From the perspective of criminal law, healthcare personnel may be subject to sanctions if their negligence results in serious injury, permanent disability, or death.²⁷ Provisions within the Criminal Code (KUHP), including Articles 359, 360, and 361, establish criminal liability for negligence causing severe harm to others. However, the element of negligence must be proven through a lawful judicial process, carefully distinguishing between inherent medical risks and violations of professional standards. Criminal prosecution is generally regarded as a last resort when administrative or civil mechanisms fail to achieve justice. Therefore, the imposition of criminal sanctions requires prudence to avoid discouraging legitimate medical practice conducted in accordance with professional standards.²⁸

In addition to civil and criminal avenues, administrative mechanisms are available to patients. Complaints may be submitted to the hospital’s Medical Committee or to the Indonesian Medical Discipline Honorary Council (MKDKI).²⁹ These bodies are authorized to assess whether medical personnel have violated professional standards and to impose disciplinary sanctions, ranging from written warnings and practice restrictions to temporary license suspension. Administrative measures primarily aim to uphold professional integrity and ensure adherence to ethical standards. Although such mechanisms do not always result in financial compensation, they play a critical role in reinforcing accountability and preventing similar negligence in the future.³⁰

Table 2. Legal Instruments and Remedies Available to Patients Victimized by Medical Negligence

Legal Basis	Form of Remedy	Legal Objective
Law No. 23 of 1992 concerning Health	Compensation claim	Recovery of losses caused by healthcare negligence
Law No. 29 of 2004 concerning Medical Practice	Complaint to MKDKI	Enforcement of professional discipline and ethics
Criminal Code (Articles 359, 360, 361)	Criminal proceedings	Punishment for negligence causing serious injury or death

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- 25 Putu Yogi, Ni, dan Muhammad Irfan. *Pertanggungjawaban Rumah Sakit Akibat Kelalaian Tenaga Kesehatan Dalam Pelayanan Terhadap Pasien Non Covid Pada Masa Pandemi Covid-19*. *Jurnal Private Law* Fakultas Hukum Universitas Mataram. Vol. 4. (Januari 2024).
 - 26 Triana, Y., et al. *Perlindungan Hukum Terhadap Pasien Atas Kelalaian Medis Oleh Tenaga Kesehatan Di Rumah Sakit*. *Jurnal Pendidikan dan Konseling (JPDK)*, 5(1), (Januari 2023)
 - 27 Fitira Annisa, Subekti. *Informed Consent sebagai Perlindungan Hukum bagi Dokter dan Pasien dalam Langkah Antisipasi Potensi Terjadinya Sengketa Medis di Rumah Sakit*. *Prosiding Seminar Nasional Hukum*, Vol. 2, No.2, (Desember 2025).
 - 28 Pratama, et al. *Analisis Pertanggungjawaban Pidana terhadap Kelalaian Tenaga Kesehatan yang Menyebabkan Kematian Pasien*. *Jurnal Multidisiplin Ilmu Akademik*, Vol. 2 No. 5, (Oktober 2025)
 - 29 Yuliana. *Pertanggungjawaban Rumah Sakit Atas Kelalaian Yang Dilakukan Oleh Tenaga Kesehatan Terhadap Pasien*. *Jurnal Hukum De'rechtsstaat*, Vol. 2. no. 2, (2019).
 - 30 Siregar, R. A. *Pandangan Hukum Kesehatan Terhadap Dugaan Malpraktek Versus Komplikasi Tindakan Kedokteran*. *Jurnal Kolaboratif Sains*, 8(6), (Juni 2025).

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Civil Code (Articles 1365, 1366, 1367, 1370, 1371)	Civil lawsuit	Compensation for material and immaterial damages
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Source: by Author

As summarized in Table 2, the Indonesian legal system provides multiple instruments enabling patients to seek accountability through administrative, civil, or criminal channels. This diversity of mechanisms grants victims flexibility in selecting the legal approach most aligned with the severity of harm suffered and the justice sought. In practice, the choice of legal remedy often depends on evidentiary considerations, procedural effectiveness, and the likelihood of obtaining fair compensation. A comprehensive understanding of these legal bases is therefore essential for safeguarding patient rights effectively.

Ultimately, determining the legal responsibility of hospitals and healthcare personnel aims to realize justice for victims, particularly patients who suffer permanent disability. The harm experienced extends beyond physical injury and may include psychological suffering, loss of economic opportunity, and long-term social consequences. Financial compensation awarded through judicial decisions, as affirmed in health legislation, constitutes one important form of redress. Nevertheless, regulatory shortcomings remain, particularly regarding the absence of clear standards governing the amount and types of compensation and the lack of detailed judicial guidelines in assessing damages.

Accordingly, strengthening regulatory clarity and accountability mechanisms within the healthcare system is imperative. Legal certainty provides balanced protection for patients as service recipients and healthcare professionals as service providers. Furthermore, a restorative justice approach should be emphasized to ensure victims receive appropriate recovery while maintaining professional development and ethical responsibility among medical practitioners. The integration of administrative oversight, civil liability, and proportionate criminal enforcement is expected to foster a more accountable, transparent, and patient-centered healthcare system.

CONCLUSION

This study demonstrates that hospital liability for healthcare negligence resulting in permanent disability is grounded in an integrated legal framework encompassing civil, criminal, and administrative law. Hospitals may be held accountable under the principle of *vicarious liability* when negligence occurs within an employment or supervisory relationship. From a civil perspective, liability may arise from breach of contract (*wanprestasi*) or unlawful acts (*onrechtmatige daad*), enabling patients to claim compensation for material and immaterial damages. Criminal liability may also be imposed where negligence results in serious injury or death, subject to judicial proof of fault. In addition, administrative mechanisms—such as disciplinary proceedings before professional bodies—serve as instruments for enforcing ethical and professional standards. However, regulatory gaps remain, particularly concerning clear standards for compensation and consistent criteria for judicial assessment of damages.

It is recommended that the government refine and harmonize existing health legislation to provide clearer guidelines regarding the scope of hospital liability and the calculation of compensation for victims of medical negligence. Detailed implementing regulations are needed to define categories of negligence, standards of proof, and measurable parameters for assessing both material and non-material damages. Hospitals should strengthen internal risk management systems, enhance supervision of healthcare personnel, and ensure strict compliance with professional standards and patient safety protocols. Furthermore, promoting a restorative justice approach—balancing accountability with professional improvement—may offer more comprehensive protection for patients while maintaining fairness toward healthcare providers.

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