



CIVIL AND CRIMINAL LIABILITY OF HOSPITALS EMPLOYING UNLICENSED MEDICAL PERSONNEL: LEGAL ACCOUNTABILITY AND PATIENT PROTECTION FRAMEWORK

Rosita Dwi Yuliandari
Universitas Hang Tuah Surabaya, Surabaya, Indonesia
rosita.s2hukum@gmail.com

Chomariyah
Universitas Hang Tuah Surabaya, Surabaya, Indonesia
chomariyah@hangtuah.ac.id

Andika Persada Putera
Universitas Hang Tuah Surabaya, Surabaya, Indonesia
andika.putera@hangtuah.ac.id

Adriano
Universitas Hang Tuah Surabaya, Surabaya, Indonesia
adriano@hangtuah.ac.id

Agung Pramono
Universitas Hang Tuah Surabaya, Surabaya, Indonesia
agung.pramono@hangtuah.ac.id

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ABSTRACT

Hospitals, as healthcare providers, are legally required to offer safe, high-quality, and authorized medical services. Nonetheless, the employment of medical and healthcare staff lacking appropriate Registration Certificates and Practice Permits persists, presenting substantial dangers to patient safety and legal adherence. This study investigates the civil and criminal culpability of hospitals as corporate organizations for the employment of unlicensed medical staff. This study utilizes a normative legal research methodology, incorporating statutory and conceptual approaches, to analyze regulations related to health services, hospitals, and corporate liability in Indonesia, specifically Law Number 17 of 2023 concerning Health and the provisions on corporate criminal liability under the Indonesian Criminal Code. The results indicate that hospitals can be held civilly accountable for unlawful actions and under the doctrine of vicarious liability for damages incurred by patients as a result of improper medical practices. Furthermore, hospitals may face criminal culpability as companies if negligence, omission, or systemic management failures allow unlicensed individuals to deliver healthcare

services. These findings underscore that the legality of medical professionals is a fundamental aspect of effective hospital governance. Enhancing internal licensing regulations and uniform law enforcement is crucial for guaranteeing legal certainty, safeguarding patients, and maintaining healthcare quality.

A. INTRODUCTION

Hospitals serve as essential healthcare institutions that ensure the public's access to safe, high-quality, and equitable medical services. Within the national healthcare system, they deliver comprehensive individual care, including emergency, inpatient, and outpatient services. Minister of Health Regulation Number 4 of 2018 on Hospital and Patient Obligations states that these services are set out in regulations that require hospitals to offer safe, high-quality, effective, and non-discriminatory care to all patients.¹

Under the Hospital Law (Article 7 of Law Number 4 of 2009), hospitals may be established by central government, regional governments, or private entities.² Privately owned hospitals must be registered as legal entities engaged in hospital services, which ensures full legal accountability. All hospitals are required to obtain permits addressing location, buildings, infrastructure, human resources, pharmaceuticals, and equipment (Article 21 paragraphs 1 and 2 of the Indonesian Minister of Health Regulation Number 3 of 2020).³

The medical practice performed by qualified healthcare professionals is crucial for patient healing. A professional in the medical field must exhibit knowledge, skills, integrity, and competence. Medical professionals with a Practice License (SIP) and a Registration Certificate (STR) are authorized to practice in healthcare facilities or hospitals.⁴ Nonetheless, numerous individuals assert their status as doctors despite lacking a valid SIP and STR due to reasons such as failing the competency examination, having demanding schedules that preclude attention to SIP and STR requirements, being unaware of the invalidity of their SIP and STR, or lacking any formal medical education,

¹ Eko Pujiyono, "Kedudukan Korporasi Rumah Sakit dalam Tanggung Gugat Kelalaian," *Jurnal Hukum dan Etika Kesehatan*, no. 2 (2021): 177. See too, Peraturan Menteri Kesehatan Nomor 4 Tahun 2018 tentang Kewajiban Rumah Sakit dan Kewajiban Pasien. Berita Negara Tahun 2018 Nomor 416.

² Undang-Undang Nomor 4 Tahun 2009 tentang Rumah Sakit. Lembaran Negara Tahun 2009 Nomor 153. Tambahan Lembaran Negara Republik Indonesia Nomor 5072.

³ Peraturan Menteri Kesehatan Nomor 3 Tahun 2020 tentang Klasifikasi dan Perizinan Rumah Sakit. Berita Negara Tahun 2020 Nomor 21.

⁴ Dinas Kesehatan Provinsi Aceh, "Persyaratan Penerbitan Surat Izin Praktek Bagi Tenaga Medis dan Tenaga Kesehatan," *Dinas Kesehatan Provinsi Aceh*, March 27, 2024. <https://dinkes.acehprov.go.id/detailpost/persyaratan-penerbitan-surat-izin-praktek-bagi-tenaga-medis-dan-tenaga-kesehatan>, Accessed on December 19, 2025.

often termed as fraudulent practitioners.⁵ Administrative law infractions concerning medical practice can lead to malpractice, particularly if medical interventions inflict physical, health, or psychological damage on patients.⁶

An instance of administrative misconduct by medical professionals was documented in the Madiun District Court Decision Number: 1110K/Pid.Sus/2012. In that occasion, the defendant was a surgeon identified by the initials doctor BS. The defendant's failure to pay the retribution charge precluded the issuance of the Practice License by the Madiun City Health Office. The defendant performed tumor excision and bowel reattachment on the patient; nonetheless, the patient had significant pain due to a leak in the large intestine anastomosis from the initial procedure. Subsequently, the patient underwent an additional operation at another facility, when it was discovered that a black thread had been retained in the perforated large intestine. The Madiun District Court Decision adjudicated the defendant guilty of deliberately engaging in the unauthorized practice of medicine and neglecting to deliver medical services in accordance with established protocols.⁷

The practice of hospitals employing medical and health personnel without a Registration Certificate and Practice License is still found in hospitals. The requirements regarding medical and health personnel in hospitals are regulated in Article 312 (c) of Law Number 17 of 2023 concerning Health.⁸ Hospitals should ensure the legality of their workforce's practice licenses to guaranty safe and quality services, as stated in Article 189 paragraph 1 (b) of Law Number 17 of 2023 concerning Health. Violations of these legal provisions are not merely administrative errors but also include criminal offenses that can implicate hospitals as corporations. The practice of medical and healthcare personnel without a Registration Certificate and a Practice License has the potential to harm patients, cause legal disputes, and violate the principles of good hospital governance. Therefore, it is necessary to examine the position

⁵ DPMPTSP Kabupaten Bantul, "Surat Izin Praktik (SIP) Tenaga Medis dan Tenaga Kesehatan Bisa Digunakan Sampai Masa Berlaku Habis," *DPMPTSP Kabupaten Bantul*, March 22, 2024. <https://dpmptsp.bantulkab.go.id/web/berita/detail/861-surat-izin-praktik-sip-tenaga-medis-dan-tenaga-kesehatan-bisa-digunakan-sampai-masa-berlaku-habis>, Accessed on December 19, 2025.

⁶ Sabrina Difa Amallia, Guritno Adi Nugroho, and Adelina Damayanti Anggarini, "Akibat Hukum Dokter Malapraktik Dan Keluarga Pasien Yang Membiarkan Keluarganya Ditangani Oleh Dokter Tanpa SIP," *Multidisciplinary Indonesian Center Journal (MICJO)* 1, no. 2 (2024): 1020.

⁷ Nur Kemala Hayati, Sayyidah Afifah, and Dinda Nur Humaira, "Menyoroti Fenomena Malpraktik dalam Praktik Kedokteran Tanpa Lisensi," *CENDEKIA: Jurnal Penelitian dan Pengkajian Ilmiah* 2, no. 6 (2025): 874.

⁸ Undang-Undang Nomor 17 Tahun 2023 tentang Kesehatan. Lembaran Negara Tahun 2023 Nomor 105. Tambahan Lembaran Negara Republik Indonesia Nomor 6887.

and legal responsibilities of hospitals as corporations. Therefore, it is necessary to examine the position and legal responsibilities of hospitals as corporations.⁹.

B. RESEARCH METHODS

This research uses normative legal research methodology with legal and conceptual approaches to examine regulations regarding health services, hospitals, and corporate responsibility in Indonesia, particularly Law Number 17 of 2023 concerning Health, Government Regulation of the Republic of Indonesia Number 28 of 2024 concerning the Implementing Regulation of Law Number 17 of 2023 concerning Health, and provisions regarding corporate criminal responsibility based on the Indonesian Criminal Code.

This research utilizes a legal framework, a conceptual framework, and a case-based analytical methodology. The statutory approach involves analyzing laws and regulations pertinent to hospitals, health personnel licensure, and business responsibility, including the Hospital Law and the Health Law. The conceptual framework is utilized to analyze legal theories such as corporate criminal culpability, vicarious liability, respondeat superior, and strict liability concerning hospitals. Furthermore, doctrinal examination is performed to ascertain the legal status of hospitals as public or private legal entities.

This research employs legal materials that include primary sources like statutes and regulations; secondary sources such as legal textbooks, journal articles, and scholarly opinions; and tertiary sources include legal dictionaries and encyclopedias. All legal documents undergo qualitative analysis using prescriptive and analytical methods to determine the civil and criminal responsibilities of hospitals in complying with medical personnel licensing requirements.

C. DISCUSSION

1. The Status of Hospitals as Corporations

a. Characteristics of Hospital

Corporation comes from the Latin word, namely corpora or corpus, which means body or body.¹⁰ The term corporation according to Satcipto Rahardjo means a new personality born by law. The personality referred to is

⁹ Resa IS, "Sanksi Rumah Sakit & Klinik Kerjakan Dokter atau Tenaga Kesehatan Tanpa Izin Praktek," *ILS Law Firm*. <https://www.ilslawfirm.co.id/sanksi-rumah-sakit-klinik-kerjakan-dokter-tenaga-kesehatan-tanpa-izin-praktek/>, Accessed on December 17, 2025.

¹⁰ John R. Stone, *The Routledge Dictionary of Latin Quotations: The Illiterati's Guide to Latin Maxims, Mottoes, Proverbs, and Sayings* (New York: Routledge, 2005), 17. See too, Hukum Online, "Teori Pertanggungjawaban Tindak Pidana Korporasi," *Hukum Online*, June 12, 2025. <https://www.hukumonline.com/klinik/a/teori-pertanggungjawaban-tindak-pidana-korporasi-lt684b91b01217d/>, Accessed on December 17, 2025.

rechtspersoon or legal personality that can bear rights and obligations like a person or persoon. A hospital as a corporation signifies that it is a legal entity.¹¹

A corporation is delineated in Article 146 of Law Number 1 of 2023 concerning the Criminal Code as an organized collective of individuals and/or assets, which may manifest as a legal entity, including but not limited to a limited liability company, foundation, association, cooperative, state-owned enterprise, regional-owned enterprise, village-owned enterprise, or analogous entities, or as an unincorporated association or business entity, such as a firm, limited partnership, or equivalent.¹²

According to Article 1, paragraph (10) of Law Number 17 of 2023 regarding Health, a hospital is a health service facility that provides a full range of individual health services, including inpatient, outpatient, and emergency services, through promotive, preventive, curative, rehabilitative, and/or palliative care.

Law Number 44 of 2009 regarding Hospitals outlines the main duties of hospitals. These include providing medical treatment and health recovery services that meet established hospital service standards, promoting and improving individual health through comprehensive health services, facilitating education and training for health care workers to improve their ability to provide health services, and conducting health research and development and technology assessment to improve health services while following ethical guidelines in health science. There are two main categories of hospitals: general and specialized. The sort of services they offer determines which type they are.¹³ General hospitals provide healthcare services for all areas and types of diseases. In contrast, specialized hospitals primarily offer services for a specific area or type of disease based on the type of illness, age group, organ, discipline, or other specialization.¹⁴

Hospitals are categorized into public and private entities based on their management structure. Public hospitals are administered by the government or local authorities, and their operations are governed by Public Service Agencies (BLU) or Regional Public Service Agencies (BLUD) in compliance with legal regulations. Simultaneously, private hospitals are operated by legal

¹¹ Satjipto Rahardjo, *Ilmu Hukum* (Bandung: Citra Aditya Bakti, 2014), 69. See too, Pengadilan Negeri Tilamuta Kelas II, "Penerapan Pertanggungjawaban Korporasi dalam Hukum Pidana," *Pengadilan Negeri Tilamuta Kelas II*, May 23, 2016. <https://pn-tilamuta.go.id/2016/05/23/penerapan-pertanggungjawaban-korporasi-dalam-hukum-pidana/>, Accessed on December 18, 2025.

¹² Christian Charlie Moniaga, Presly Prayogo, Renny Nansy, and Syuli Koloay, "Kajian Yuridis Tentang Pertanggungjawaban Rumah Sakit Menurut Doktrin *Respondeat Superior*," *LEX Administratum* 12, no. 5 (2024): 4.

¹³ Wahyudi, "Kedudukan Badan Hukum Rumah Sakit Privat Dihubungkan dengan Fungsi Sosio-Ekonomi," *Jurnal Istiabath* 15, no. 2 (2018): 235.

¹⁴ Wahyudi, "Kedudukan Badan Hukum Rumah Sakit Privat Dihubungkan dengan Fungsi Sosio-Ekonomi," *Jurnal Istiabath* 15, no. 2 (2018): 236.

entities structured as Limited Companies (PT) or Partnerships with the objective of generating profit. Law Number 44 of 2009 concerning Hospitals specifies the categorization of hospitals based on their service capabilities and amenities as follows: Class A General Hospitals possess extensive specialist and subspecialist medical care facilities and expertise. b) Class B General Hospitals have the capability and resources to provide at least eleven specialized and subspecialized medical services. Class C General Hospitals have essential specialized medical care facilities and expertise. Class D General Hospitals possess essential medical care facilities and competencies.¹⁵

A defining feature of a legal entity is the delineation of assets between the proprietor and the enterprise. The owner is liable solely to the extent of their assets. Business entities structured as Legal Entities comprise:¹⁶

1) Limited Liability Company

Limited Liability Companies in Indonesia are governed by Law Number 40 of 2007 concerning Limited Liability Companies.¹⁷ A Limited Liability Company represents a form of capital-based partnership established through an agreement among its founders, which carries out business activities with capital that is fully divided into shares.

Each individual, as a legal subject, has the capacity to independently undertake legal actions, possess personal assets, and initiate or defend legal claims before a court of law. A Limited Liability Company itself is recognized as a legal entity, formed based on an agreement, operating in the commercial sector, and possessing authorized capital that is structured in the form of share ownership.¹⁸

2) Foundation

Foundations are governed under Law Number 28 of 2008 pertaining to Foundations.¹⁹ A foundation is a legal entity with distinct assets allocated for the pursuit of particular social, religious, and humanitarian objectives, and it lacks members.

3) Cooperatives

¹⁵ Undang-Undang Nomor 44 Tahun 2009 tentang Rumah Sakit. Lembaran Negara Tahun 2009 Nomor 153. Tambahan Lembaran Negara Republik Indonesia Nomor 5072.

¹⁶ Wahyudi, "Kedudukan Badan Hukum Rumah Sakit Privat Dihubungkan dengan Fungsi Sosio-Ekonomi," *Jurnal Istiabath* 15, no. 2 (2018): 238.

¹⁷ Undang-Undang Nomor 40 Tahun 2007 tentang Perseroan Terbatas. Lembaran Negara Tahun 2007 Nomor 106. Tambahan Lembaran Negara Republik Indonesia Nomor 4756.

¹⁸ Bianda Adeti Patriajaya, Muhammad Rifani, and Lusiana Pratiwi Sukmajaya, "Tanggung Jawab Perdata Rumah Sakit terhadap Pasien Jiwa yang Melukai Diri Sendiri atau Orang Lain Selama Masa Perawatan," *Jurnal JIHHP* 5, no. 6 (2025): 4736.

¹⁹ Undang-Undang Nomor 28 Tahun 2008 tentang Perubahan atas Undang-Undang Nomor 16 Tahun 2001 tentang Yayasan. Lembaran Negara Tahun 2004 Nomor 115. Tambahan Lembaran Negara Nomor 4430.

Cooperatives are governed by Law Number 17 of 2012 on Cooperatives.²⁰ A cooperative is a legal body formed by individuals or cooperative legal entities, characterized by the separation of its members' wealth as capital for economic operations. Cooperatives function in alignment with cooperative goals and principles, addressing the shared objectives and needs in economic, social, and cultural domains.

4) State-Owned Enterprises

State-Owned Enterprises (SOEs) in Indonesia are governed by Law No. 19 of 2003 on State-Owned Enterprises.²¹ In general, the regulatory framework for SOEs is based on the principle that these entities manage and operate assets that are separated from the state's general treasury.

Business entities are not only legal entities, but some are not legal entities, namely:²²

1) Civil Partnership

A civil partnership constitutes a legal relationship in which two or more parties mutually agree to contribute assets, skills, or other resources to a संयुक्त enterprise, with the objective of jointly deriving and sharing the resulting profits. Within this legal framework, each partner assumes personal liability for the obligations and debts incurred by the civil partnership.

2) Firm

A firm is a partnership established to conduct business under a common name. The members are jointly and severally liable for the firm.

3) Limited Partnership

A limited partnership is divided into two types: active partners and passive/limited partners. Active partners are liable up to their personal assets. Meanwhile, passive partners are liable up to the amount of capital contributed to the limited partnership.

b. Hospital as Public/Private

Legal Entities Public and private hospitals must be legal entities in order to perform legal acts.²³ The legal actions in question concern the hospital's relationships with internal and external parties. The hospital's internal relationships are those with its employees, namely medical and non-medical staff. External relationships, on the other hand, are those between the hospital and external parties, such as collaborations for the procurement of medical

²⁰ Undang-Undang Nomor 17 Tahun 2012 tentang Perkoperasian. Lembaran Negara Tahun 2012 Nomor 212. Tambahan Lembaran Negara Republik Indonesia Nomor 5355.

²¹ Undang-Undang Nomor 19 Tahun 2003 tentang Badan Usaha Milik Negara. Lembaran Negara Tahun 2003 Nomor 70. Tambahan Lembaran Negara Republik Indonesia Nomor 4297.

²² Wahyudi, "Kedudukan Badan Hukum Rumah Sakit Privat Dihubungkan dengan Fungsi Sosio-Ekonomi," *Jurnal Istiabath* 15, no. 2 (2018): 239.

²³ Wahyudi, "Kedudukan Badan Hukum Rumah Sakit Privat Dihubungkan dengan Fungsi Sosio-Ekonomi," *Jurnal Istiabath* 15, no. 2 (2018): 241.

equipment, outsourced labor, or the receipt of grants from domestic and foreign sources.²⁴

2. Obligation of Licensing for Medical and Health Personnel

Hospitals and doctors have a legal relationship, namely an employment relationship (*dienstverband*). Doctors work in hospitals to carry out their professional duties.²⁵ Beside doctors, there is the term medical staff who do not hold the status of hospital employees (*werknemer*), but their relationship is based on a contract to care for patients (*toelatingscontract*)²⁶.

Physicians' responsibilities are regulated under Law Number 17 of 2023 on Health, particularly Article 274 in conjunction with Article 275:

- a. Providing medical services in accordance with professional standards, standard operating procedures, ethical guidelines, and the medical needs of patients.
- b. Obtaining informed consent from the patient or their family prior to undertaking any medical procedures.
- c. Maintaining the confidentiality of the patient's health.
- d. Creating and keeping records and/or documents about examinations, care, and actions taken.
- e. Referring patients to other doctors who have the appropriate competence and authority.
- f. Providing first aid to patients in emergency and/or disaster situations.

The responsibilities of hospitals are governed by Law Number 17 of 2023 about Health, Article 189, paragraph (1), as follows:

- a. Providing safe, quality, non-discriminatory, and effective medical services prioritizing the interests of patients in accordance with hospital service standards.
- b. Providing emergency services according to their capabilities.
- c. Creating, implementing, and maintaining medical service quality standards.
- d. Implementing a referral system.
- e. Organizing medical records.
- f. Providing accurate, clear, and honest information regarding patients' rights and obligations.
- g. Respecting and protecting patients' rights.

²⁴ Wahyudi, "Kedudukan Badan Hukum Rumah Sakit Privat Dihubungkan dengan Fungsi Sosio-Ekonomi," *Jurnal Istiabath* 15, no. 2 (2018): 242

²⁵ Koeswadiji, *Hukum Kedokteran (Studi Tentang Hubungan Hukum dalam Mana Dokter sebagai Salah Satu Pihak)* (Bandung: Citra Aditya Bhakti, 1998), 100.

²⁶ Koeswadiji, *Hukum Kedokteran (Studi Tentang Hubungan Hukum dalam Mana Dokter sebagai Salah Satu Pihak)* (Bandung: Citra Aditya Bhakti, 1998), 110.

A doctor working in a hospital must meet several requirements regulated by the administrative law of the Medical Practice Act, such as the Registration Certificate and the Practice License.

The Registration Certificate is a written proof owned by healthcare workers who have obtained a competency certificate. The Registration Certificate is issued by the government. The Registration Certificate is valid and renewed every 5 (five) years. However, the new legislation states that the Registration Certificate is valid for a lifetime. Meanwhile, the Practice License (SIP) is a written proof from the government to healthcare workers who already have a competency certificate.²⁷

Doctors who commit violations may be subject to administrative sanctions. Administrative sanctions can include the temporary or permanent revocation of the Practice License. In cases of severe violations, the sanction is the revocation of the Registration Certificate²⁸. Per Law Number 29 of 2004 on Medical Practice, Articles 75-78, physicians are prohibited from practicing medicine without a Registration Certificate and a Practice License.

Furthermore, pursuant to Law Number 29 of 2004 about Medical Practice, Article 80, criminal sanctions are levied against parties or individuals that engage doctors lacking a Registration Certificate and a Practice License. Law Number 29 of 2004 regarding Medical Practice stipulates that criminal offenses in medical practice commence with breaches of administrative law²⁹. Administrative law violations that result in criminal acts have the potential to become both criminal and civil malpractice. This shows that every criminal malpractice related to medical practice contains elements of civil malpractice. However, civil malpractice does not always become criminal malpractice³⁰.

The licenses that must be held by medical and health personnel are the Registration Certificate and the Practice License, in accordance with Law Number 17 of 2023. Provisions regarding the procedures for imposing

²⁷ Arivigo Pranata, "Kewajiban Memiliki Surat Izin Praktik bagi Tenaga Medis dan Tenaga Kesehatan Berdasarkan Undang-Undang Kesehatan 2023," *BP Lawyers*, May 22, 2024. <https://bplawyers.co.id/2024/05/22/kewajiban-memiliki-surat-izin-praktik-bagi-tenaga-medis-dan-kesehatan-berdasarkan-undang-undang-kesehatan-2023/>, Accessed on December 19, 2025.

²⁸ Haryanto Njoto, "Pertanggungjawaban Dokter dan Rumah Sakit Akibat Tindakan Medis yang Merugikan dalam Perspektif UU No. 44 Th. 2009 tentang Rumah Sakit," *DiH: Jurnal Ilmu Hukum* 7, no. 14 (2011): 65.

²⁹ Haryanto Njoto, "Pertanggungjawaban Dokter dan Rumah Sakit Akibat Tindakan Medis yang Merugikan dalam Perspektif UU No. 44 Th. 2009 tentang Rumah Sakit," *DiH: Jurnal Ilmu Hukum* 7, no. 14 (2011): 66.

³⁰ Haryanto Njoto, "Pertanggungjawaban Dokter dan Rumah Sakit Akibat Tindakan Medis yang Merugikan dalam Perspektif UU No. 44 Th. 2009 tentang Rumah Sakit," *DiH: Jurnal Ilmu Hukum* 7, no. 14 (2011): 67.

administrative sanctions are regulated in Law Number 17 of 2023 concerning Health:³¹

- a. Clause 439 stipulates that medical personnel or healthcare workers possessing a Practice License shall face imprisonment for up to 5 years or a fine not exceeding Rp 500,000,000 (five hundred million Rupiah).
- b. Clause 441 paragraph (1): Any individual who employs an identity, whether as a title or in another manner, that conveys to the public the impression that they are medical personnel and/or healthcare workers possessing a valid Registration Certificate and/or Practice License shall be subject to a maximum imprisonment of five (5) years or a fine not exceeding Rp 500,000,000 (five hundred million Rupiah).
- c. Clause 441 paragraph (1): Any individual who employs an identity, whether as a title or in another manner, that conveys to the public the impression that they are medical personnel and/or healthcare workers possessing a Registration Certificate and/or Practice License shall be subject to imprisonment for a maximum of five (5) years or a fine not exceeding Rp 500,000,000 (five hundred million Rupiah).
- d. Clause 441, paragraph (1): Any individual who employs an identity in the guise of a title or any other form that conveys to the public. The Registration Certificate serves as documented evidence for healthcare professionals who possess a competency certificate. The government issues the Registration Certificate. The Registration Certificate is valid and is renewed every five years. New regulations stipulate that the Registration Certificate is valid indefinitely. A Practice License is official documentation issued by the government to healthcare professionals who possess a certificate of competence.

3. Civil and Criminal Liability of Hospitals

An unlawful act or *onrechtmatige daad* is an act that is contrary to the law and causes harm to others.³² A person who commits a legal act is obliged to compensate for the damage caused by their wrongdoing to the party suffering the loss, even if both parties did not make an agreement.³³ In a hospital, there is a tripartite relationship that exists between doctors, the hospital, and patients within the scope of private law. There are relationships

³¹ Arivigo Pranata, "Kewajiban Memiliki Surat Izin Praktik bagi Tenaga Medis dan Tenaga Kesehatan Berdasarkan Undang-Undang Kesehatan 2023," *BP Lawyers*, May 22, 2024. <https://bplawyers.co.id/2024/05/22/kewajiban-memiliki-surat-izin-praktik-bagi-tenaga-medis-dan-kesehatan-berdasarkan-undang-undang-kesehatan-2023/>, Accessed on December 19, 2025.

³² SIP Law Firm, "Perbuatan Melawan Hukum dalam Hukum Perdata: Definisi, Unsur, dan Ganti Rugi," *SIP Law Firm*, June 24, 2024. <https://siplawfirm.id/perbuatan-melawan-hukum/?lang=id>, Accessed on December 19, 2025.

³³ Zamroni, *Hukum Kesehatan: Tanggung Gugat Dokter dan Rumah Sakit dalam Praktik Pelayanan Medis* (Surabaya: Scopindo Media Pustaka, 2022), 42.

between the doctor and the hospital, the doctor and the patient, as well as the hospital and the patient.

The hospital's liability for the losses suffered by patients can be classified into two types, namely the hospital's liability due to the negligence of the hospital as a corporation and the hospital's liability due to the negligence of the hospital's healthcare human resources.³⁴ The hospital's liability for its corporate negligence signifies that it is directly accountable to the patient in accordance with Article 189 of Law Number 17 of 2023 about Health. If the hospital neglects its responsibilities, leading to patient harm, it is accountable for corporate negligence. Consequently, the hospital's obligation arising from the negligence of its healthcare personnel implies that the institution is accountable for the misconduct of its employees.

Patients have a relationship with both the doctor and the hospital. From the patient's perspective, they can be involved in the relationship between the doctor and the hospital. Patients can interact with the hospital alone, without interacting with the doctor. The civil legal responsibility of hospitals is a legal obligation to compensate for damages caused by the negligence of medical staff (involving doctors) or hospital management (without involving doctors), based on Vicarious Liability.³⁵ The civil legal responsibility of hospitals can arise from default or unlawful acts, which include services that do not meet standards, facility issues, and poor management, leading to patients claiming material damages.³⁶ The legal basis for the civil liability of hospitals includes Article 46 of Law Number 44 of 2009 concerning Hospitals, Article 193 of Law Number 17 of 2023 concerning Health, Articles 1365 and 1367 of the Civil Code.³⁷ Article 1365 of the Civil Code regulates direct civil violations, while Article 1367 of the Civil Code regulates indirect civil violations. The licensing of healthcare and medical personnel can have civil law implications if violations cause financial loss/injury to patients due to malpractice. Patients can seek compensation thru civil legal channels.³⁸

³⁴ Zamroni, *Hukum Kesehatan: Tanggung Gugat Dokter dan Rumah Sakit dalam Praktik Pelayanan Medis* (Surabaya: Scopindo Media Pustaka, 2022), 43.

³⁵ Kepaniteraan Mahkamah Agung, "Vicarious Liability," *Kepaniteraan Mahkamah Agung*, October 27, 2021. <https://kepaniteraan.mahkamahagung.go.id/glosarium-hukum/1895-vicarious-liability>, Accessed on December 17, 2025.

³⁶ Bianda Adeti Patriajaya, Muhammad Rifani, and Lusiana Pratiwi Sukmajaya, "Tanggung Jawab Perdata Rumah Sakit terhadap Pasien Jiwa yang Melukai Diri Sendiri atau Orang Lain Selama Masa Perawatan," *Jurnal JIHHP* 5, no. 6 (2025): 4737.

³⁷ Bella Natalia Toumahuw, Andy Usmina Wijaya, and Rahmadi Mulyo Widiyanto, "Tanggung Jawab Rumah Sakit terhadap Kelalaian Malpraktik," *Jurnal Ilmu Hukum Wijaya Putra* 1, no. 2 (2023): 57. See too, Mahkamah Agung RI, "Kitab Undang-Undang Hukum Perdata," *JDIH Mahkamah Agung RI*. <https://jdih.mahkamahagung.go.id/legal-product/kitab-undang-undang-hukum-perdata/detail>, Accessed on December 18, 2025.

³⁸ Zaldy Salim Mhd. Hamid, "Memahami Pertanggungjawaban Rumah Sakit atas Tindakan Tenaga Medis," *Heylaw*, February 15, 2024. <https://heylaw.id/blog/memahami-pertanggungjawaban-rumah-sakit-atas-tindakan-tenaga-medis>, Accessed on December 19, 2025.

Criminal law is associated with law that is bound to an act that meets the conditions of an outcome in the form of a penalty. Doctors can be prosecuted if they commit medical malpractice due to error, negligence, or unlawful acts. The actions referred to are those that are contrary to the law/contain elements of unlawfulness and unlawful acts that involve elements of fault, namely intent or negligence.³⁹

The criminal legal responsibility of a hospital occurs when there is medical negligence that causes serious or fatal harm to a patient. The hospital is legally responsible based on the doctrine of vicarious liability and can be held criminally accountable if there is an element of gross negligence that results in serious consequences.⁴⁰ The legal basis for criminal liability is found in Article 46 of the Hospital Law. The licensing of healthcare and medical personnel can have criminal law implications if the violation involves fraudulent actions, such as the forgery of a Registration Certificate or a Practice License, causing financial loss/injury to patients due to malpractice. Patients can seek damages through criminal legal channels.⁴¹

D. Conclusion

Hospitals, as corporations, are legal entities that can be held civilly and criminally liable if they employ medical and healthcare personnel without a Registration Certificate and Practice Permit. The obligation to ensure the legality of healthcare personnel is part of the hospital's legal responsibility to guaranty safe, high-quality healthcare services that comply with legal and regulatory provisions.

In the civil realm, hospital liability is based on unlawful acts and the doctrine of vicarious liability for losses suffered by patients due to unauthorized practices. Meanwhile, in the criminal realm, hospitals as corporations can be held liable if negligence, omission, or failure of the management system that allowed unauthorized medical and health personnel practices is proven, based on the doctrines of respondeat superior and strict liability.

Hospitals, as corporations, need to fulfill their legal obligations by consistently ensuring compliance with the licensing requirements for medical and healthcare personnel, in accordance with the provisions of the law. Strengthening the licensing management system and internal supervision is

³⁹ Iip Saripudin and Novi Rahmansyah, "Tanggung Jawab Rumah Sakit sebagai Korporasi Akibat Malpraktek yang Dilakukan oleh Dokter," *Jurnal Hukum Progresif* 8, no. 6 (2025): 30.

⁴⁰ Wahyu Andrianto, "Tanggung Jawab Hukum Rumah Sakit di Indonesia," *Hukum Online*, February 24, 2021. <https://www.hukumonline.com/berita/a/tanggung-jawab-hukum-rumah-sakit-di-indonesia-lt6035beb69e003/?page=2>, Accessed on December 19, 2025.

⁴¹ Zaldy Salim Mhd. Hamid, "Memahami Pertanggungjawaban Rumah Sakit atas Tindakan Tenaga Medis," *Heylaw*, February 15, 2024. <https://heylaw.id/blog/memahami-pertanggungjawaban-rumah-sakit-atas-tindakan-tenaga-medis>, Accessed on December 19, 2025.

essential to ensure legal certainty, patient safety, and the quality of healthcare services.

The government and regional governments are advised to optimize their supervisory and monitoring functions over hospitals, particularly regarding compliance with the licensing obligations of medical and health personnel, and to strictly and proportionally impose administrative and criminal sanctions to ensure the effectiveness of law enforcement in the hospital sector.

Additionally, there is a need to strengthen regulations and technical guidelines that provide clarity on the legal accountability mechanisms of hospitals as corporations, to prevent diverse interpretations in the application of civil and criminal liability in the healthcare sector.

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