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Construction of Doctors' Criminal Liability in Handling Emergency Patients: Between Medical Negligence, Medical Risk, and First Aid Obligations

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Abstract. *Emergency medical services are a form of healthcare that requires speed, accuracy, and professionalism from healthcare workers, particularly doctors. In practice, not all medical care leads to recovery, and in certain situations, it can result in disability or death. These conditions raise legal issues regarding the boundaries between medical negligence, medical risk, and the obligation to provide first aid in emergency situations. This study aims to analyze the construction of doctors' criminal liability in treating emergency patients based on Law Number 17 of 2023 concerning Health, the Indonesian Criminal Code, and health law doctrine in Indonesia. This study uses a normative juridical method with a statutory, conceptual, and case-based approach. The findings indicate that criminal liability for doctors in emergency services can only be imposed when an element of error in the form of gross negligence is proven, there is a causal relationship between the doctor's actions and the patient's harm, and there is no justification or excuse. The medical risks inherent in medical procedures cannot automatically be criminalized. On the other hand, doctors and healthcare facilities have a legal obligation to provide first aid to emergency patients without discrimination. This study emphasizes the need for a balanced legal formulation between patient protection and protection of the medical profession to avoid defensive medical practices in health services.*

Keywords: *Criminal Liability; Emergency Services; Medical Negligence; Medical Risk; Physicians.*

1. Introduction

The development of modern healthcare has brought about significant changes in the relationship between doctors and patients. What was previously a paternalistic relationship has now evolved into a legal relationship that positions patients as legal subjects with the right to receive safe, high-quality, and humane healthcare (Fheriyal Sri Isriawaty, 2015). In this context, doctors are no longer viewed solely as those who determine medical procedures based on scientific authority, but also as legal subjects bound by professional standards, standard operating procedures, medical ethics, and statutory provisions (Cecep Triwibowo, 2014). This paradigm shift demonstrates that healthcare is not merely a matter of medical technicalities, but also a matter of human rights protection, legal certainty, and professional accountability.

Emergency situations are highly complex situations because they involve human life and must be handled quickly and appropriately (Ramadhani et al., 2026). In such situations, doctors often face time constraints, incomplete clinical information, psychological stress, and limited resources and resources. These situations require immediate medical decisions, which are not always ideal but must remain within professional standards. Therefore, poor medical outcomes in emergency care cannot be simply considered negligence, as medical practice always carries inherent medical risks stemming from the inherent uncertainty of medical science (Hendrojono Soewono, 2007).

Constitutionally, the right to health services is guaranteed by Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which states that everyone has the right to receive health services. This constitutional guarantee is further elaborated in Law Number 17 of 2023 concerning Health. In this law, health services are organized based on the principles of humanity, benefit, justice, non-discrimination, ethics and professionalism, protection and safety, and legal certainty. Furthermore, this law also defines an emergency as a clinical condition of a patient that requires immediate medical and/or psychological action to save lives and prevent disability (Law of the Republic of Indonesia Number 17 of 2023 concerning Health). The obligation to provide first aid in emergency situations has a very strong normative basis in the Indonesian health law system.

In healthcare practice, particularly in emergency departments, doctors are often faced with situations that require rapid medical decision-making. It's not uncommon for medical procedures to result in complications, disability, or even death. These situations often lead to accusations of medical negligence against doctors, especially when the public doesn't understand that poor outcomes don't always equate to legal errors. Problems arise when the line between medical risk and medical negligence isn't adequately understood by the public or law enforcement (Bahder Johan Nasution, 2013). In many cases, failure to save a patient is perceived as a form of professional error, when in reality, medical risks may be inherent in the procedure itself.

Medical negligence is essentially a deviation from professional standards and standard operating procedures that should be followed by medical personnel. In health law doctrine, negligence can be understood as the failure to do something that should be done or doing something that should not be done, which causes harm to the patient (J. Guwandi, 2004). However, not every adverse outcome of a medical procedure can be categorized as a criminal offense. Medicine is not an exact science, so there is always the possibility of unavoidable medical risks even if the doctor has acted according to professional standards. Distinguishing between medical negligence and medical risk is crucial for determining whether or not a doctor is criminally liable appropriately and fairly.

Criminal cases involving doctors, such as the case of Dr. Dewa Ayu Sasiary Prawani and several cases of emergency patient refusal by hospitals, demonstrate a tendency to criminalize the medical profession (Lesmonojati, 2020). The urgency of this research is also evident in the continued number of public complaints of alleged medical disciplinary violations filed with the Indonesian Medical Disciplinary Honorary Council (MKDKI).

The development of health regulations following the enactment of Law Number 17 of 2023 concerning Health shows that the issue of alleged disciplinary violations and the legal accountability of medical personnel remains a pressing issue. In 2024, the government, through the Indonesian Health Council (KKI) and the Professional Disciplinary Council (MDP), strengthened the mechanisms for receiving, examining, and imposing sanctions on alleged disciplinary violations by medical and healthcare personnel. The Professional Disciplinary Council is authorized to receive and verify complaints, investigate alleged violations of professional discipline, impose disciplinary sanctions, and provide recommendations regarding alleged actions by medical personnel that could potentially lead to legal liability. This situation indicates that medical disputes and alleged negligence by medical personnel remain relevant issues in healthcare practice in Indonesia, including in emergency care, which carries a high level of clinical risk. Therefore, clarity is needed regarding the boundaries between medical risk and medical negligence to prevent the criminalization of medical actions carried out based on professional standards and in good faith in emergency situations.

Table 1. Development of the Medical Personnel Disciplinary Enforcement System Post-2023 Health Law

Year	Development
2023	Law No. 17 of 2023 concerning Health was passed
2024	Formation of the Indonesian Health Council (KKI)
2024	Establishment of the Professional Disciplinary Council (MDP) as an institution for enforcing discipline among medical and health workers
2024	MDP is given the authority to receive, examine and decide on alleged violations of professional discipline.
2024	The results of the MDP examination can be the basis for consideration in legal disputes involving medical personnel.

Source: Law No. 17 of 2023; Minister of Health Regulation No. 12 of 2024; Minister of Health Regulation No. 13 of 2024.

Table 1 shows that the medical personnel disciplinary enforcement system underwent significant changes following the enactment of Law Number 17 of 2023 concerning Health. These changes were marked by the establishment of the Indonesian Health Council and the Professional Disciplinary Council, which have the authority to receive, examine, and decide on alleged disciplinary violations by medical and healthcare personnel. This institutional strengthening demonstrates the state's efforts to position the professional disciplinary mechanism as the primary instrument before the use of criminal sanctions. Therefore, the existence of the Professional Disciplinary Council is crucial in determining whether a medical action constitutes a justifiable medical risk or whether it meets the elements of negligence that warrant legal accountability.

On the other hand, the public also needs legal protection from the negligent actions of healthcare workers or those who neglect their obligation to provide first aid in emergencies (Kristianto, Nurgraheni, and Lufsiana, 2025). This situation demonstrates the legal balance between two equally important interests: protecting patient rights and protecting the medical profession from excessive criminal penalties for the inherent risks inherent in medical procedures.

This issue highlights the importance of constructing a criminal liability framework for physicians that clearly differentiates between medical negligence, medical risk, and first aid obligations (Wahyu Andrianto and Djarot Achmad, 2019). A disproportionate legal framework can lead to defensive medicine, where doctors are overly cautious for fear of prosecution, which can negatively impact the quality of healthcare services. Therefore, a criminal liability model is needed that places criminal law as a last resort, used only when there is a clear error, a clear causal relationship, and no justification or excuse.

Based on this background, this study examines how the construction of criminal liability of doctors in the treatment of emergency patients is reviewed from the perspective of health law and criminal law in Indonesia. This study is also important to emphasize the normative boundaries between medical actions that constitute professional risks and actions that can truly be qualified as criminal negligence, in order to create legal certainty for patients and reasonable protection for doctors. Based on the background description above, the formulation of the problem in this study is as follows: 1) What is the boundary between medical negligence and medical risk in emergency services? 2) What are the legal obligations of doctors in providing first aid to emergency patients? 3) How is the construction of criminal liability of doctors in the treatment of emergency patients according to health law and criminal law in Indonesia?

2. Research Methods

This study aims to examine in depth the construction of physicians' criminal liability in the treatment of emergency patients from the perspectives of health law and criminal law in Indonesia. The main focus of the study is directed at efforts to clearly distinguish between medical negligence and medical risk in emergency health services, considering that not every adverse outcome of medical treatment can automatically be categorized as a criminal act. This study also aims to analyze the normative boundaries used to determine when a physician's actions can be considered a form of criminal negligence and when they still fall within the scope of medical risk inherent in medical practice.

This study also aims to examine the legal obligations of doctors and healthcare facilities in providing first aid to emergency patients as stipulated in Law Number 17 of 2023 concerning Health and various other health regulations. This study is

also directed at examining the elements of a doctor's criminal liability, such as the element of fault, the causal relationship between the doctor's actions and the patient's harm, and the possibility of justification or excuse in emergency medical procedures. Ultimately, this study aims to formulate a proportional and equitable legal construction so that legal protection for patients remains guaranteed without leading to excessive criminalization of the medical profession, thus creating a balance between the interests of patient protection and the protection of the medical profession in the Indonesian healthcare system.

This study uses a normative juridical research method with a statute approach, a conceptual approach, and a case approach (Soerjono Soekanto and Sri Mamudji, 2001). The statutory approach is carried out by examining various regulations related to health services and the criminal liability of doctors, including:

a. The 1945 Constitution of the Republic of Indonesia (Article 28H paragraph (1));
b. Law Number 17 of 2023 concerning Health (Articles 174, 275, 438)
c. Law Number 29 of 2004 concerning Medical Practice;
d. Law Number 44 of 2009 concerning Hospitals;
e. Criminal Code (Articles 359, 360); and
f. Regulation of the Minister of Health regarding emergency service standards.

A conceptual approach is used to examine the concepts of medical negligence, medical risk, informed consent in emergency situations, the lege artis principle, and the construction of criminal liability in health and criminal law. The case approach is carried out through an analysis of court decisions related to emergency services, such as the case of Dr. Dewa Ayu Sasiary Prawani (Supreme Court Decision No. 1234 K/Pid/2014) and cases of refusal of emergency patients in various hospitals.

The legal materials used include:

a. Primary legal materials: statutory regulations, court decisions, and professional regulations.
b. Secondary legal materials: books, legal journals, medical council reports, and health law doctrine.
c. Tertiary legal materials: legal dictionaries and encyclopedias.

Data collection techniques were conducted through library research by collecting, identifying, and inventorying legal materials from academic databases, university libraries, and official government websites. Data analysis was conducted qualitatively using descriptive-analytical legal interpretation techniques (grammatical, systematic, historical, and teleological) to formulate a proportional legal construction (Peter Mahmud Marzuki, 2016).

3. Results and Discussion

3.1. Legal Relationship Between Doctors and Patients in Emergency Services: Specific Characteristics and Normative Implications

The legal relationship between a doctor and a patient is fundamentally based on a therapeutic relationship arising from an agreement to perform a medical procedure, thus giving rise to reciprocal rights and obligations within the realm of civil and professional law (Mahsun Ismail, 2020). In conventional healthcare settings, this relationship is based on the principle of informed consent, which requires the doctor to provide complete information regarding the procedure, risks, alternatives, and prognosis, so that the patient can provide conscious and voluntary consent (Herniawati et al., 2020). This principle reflects the patient's autonomy as a legal subject and avoids accusations of human rights violations in healthcare.

However, in emergency care, the dynamics of legal relations undergo a fundamental transformation due to the urgency of life-saving. Critically ill patients are often unable to give consent due to impaired consciousness, massive bleeding, shock, or the threat of imminent death. Therefore, doctors are permitted to perform medical procedures based on implied consent and the doctrine of zaakwaarneming (managing another person's affairs for their own benefit). This doctrine is recognized in Indonesian law as part of the principle of humanity and life-saving, which is higher than administrative formalities. Law Number 17 of 2023 concerning Health explicitly accommodates this through Article 174, which requires health care facilities to provide first aid promptly without delay due to administrative, financial, or social reasons.

The legal relationship in emergency care is fiduciary, emphasizing the patient's absolute trust in the doctor. The doctor acts as a fiduciary and is obliged to prioritize the patient's interests above all else. The applicable standards are no longer a perfect bilateral contract, but rather professional standards (lege artis), minimum service standards, and medical ethics such as the Indonesian Code of Medical Ethics (KODEKI). Doctors do not guarantee absolute healing but are obligated to make the best medical effort (best effort obligation) in accordance with the facilities' capabilities and the objective conditions at the time. Violations of this fiduciary relationship can result in civil liability (compensation), professional discipline (IDI sanctions), or criminal liability if proven gross negligence.

The normative implication of this particular characteristic is the need for alternative documentation mechanisms, such as triage notes, emergency medical records, and council consultation reports, to demonstrate reasonableness of the actions taken. Without adequate documentation, physicians are vulnerable to subjective accusations from patients or families.

Table 2. Comparison of Characteristics of Doctor-Patient Legal Relationships

Legal Aspects	Normal Service	Emergency Services
Informed Consent	Mandatory written/verbal, complete risk information	Implied consent; not required
Normative Basis	Therapeutic contract (Civil Code)	Legal obligations (Health Law Article 174)
Doctor's Responsibilities	Guaranteeing minimum process and results	Best effort
Documentation	Complete consent form	Triage notes & emergency records
Legal Risks	Low if consent exists	High if the result is bad

Source: Adapted from Indonesian health law literature.

3.2. The Concept of Medical Negligence in Criminal Law: Elements, Levels, and Application to Medical Cases

Medical negligence is defined as a form of culpa or lack of care in carrying out a profession that causes harm to patients, which can be legally qualified as an unlawful act (Adami Chazawi, 2002). In the Indonesian criminal law system, this concept is explicitly regulated in Article 359 of the Criminal Code (KUHP), which states that anyone who, through his/her mistake, causes the death of another person, is threatened with a maximum prison sentence of 5 years or a fine, as well as Article 360 of the Criminal Code for negligence that causes serious injury (Adami Chazawi, 2002). This provision is the main normative basis for prosecuting doctors in criminal malpractice cases.

The elements of medical negligence that must be fulfilled cumulatively are:

a. The existence of legal or professional obligations (duty of care), such as IDI professional standards or hospital SOPs;

b. Breach of duty, namely not carrying out an action that should be carried out or carrying out an action that should not be carried out;

c. There is loss or consequences (damage), in the form of death, permanent injury, or physical/psychological suffering;

d. A causal relationship between the violation and the loss, as proven through medical forensic analysis.

Negligence is divided into culpa lata (gross negligence, criminal), culpa levis (minor negligence, civil/disciplinary sanctions), and dolus (intentional, serious criminal). In medical practice, culpa lata occurs when a doctor ignores basic protocols such as ABC triage (airway, breathing, circulation) in the emergency room or fails to make a timely referral. Medical negligence must be distinguished from the broader medical malpractice, as malpractice includes an intentional element, while pure negligence is non-intentional (S. Rokayah and G. Widjaja, 2002).

Table 3. Differences between Culpa Lata and Culpa Levis in Emergency Services

Aspect	Culpa Lata (Gross Negligence)	Culpa Levis (Slight Negligence)
Error Rate	Serious deviation from professional standards	Lack of caution that is still within reasonable limits
Legal Consequences	May give rise to criminal liability	Generally falls into the realm of discipline or civil law
Relationship with SOP	Ignoring basic SOPs	SOPs are still being implemented but there are technical deficiencies.
Example in the ER	Ignoring signs of airway obstruction and not performing airway management measures	Intubation was delayed by several minutes because the equipment was not ready but the procedure was still carried out.

Expert Assessment	Real deviation from professional standards (legacy artist)	Still justifiable according to objective service conditions

Source: Adapted from Indonesian criminal law and health law doctrine.

Table 2 shows that not all forms of negligence in healthcare services can be directly classified as criminal acts. Criminal liability is generally only relevant when there is culpa lata, or gross negligence, indicating a clear deviation from professional standards and operational procedures. Conversely, culpa levis is more appropriately resolved through professional disciplinary mechanisms or civil liability because it does not always reflect a serious neglect of duty. In the context of emergency care, this distinction is important, given that physicians often work under conditions of high stress, time constraints, and clinical uncertainty.

Discussions on medical negligence are not only important from a normative perspective but also have empirical relevance to healthcare practice in Indonesia. Data previously handled by the Indonesian Medical Disciplinary Honorary Council (MKDKI) show that medical disputes and alleged violations of medical discipline are a real problem. From 2006 to March 2012, the MKDKI received 160 complaints of alleged medical malpractice. Of these, 51 cases were decided, involving 86 doctors and dentists as defendants. Of these, 38 were found guilty of disciplinary violations and the rest were not proven guilty. Other research also indicates that approximately 80% of complaints are influenced by communication problems between doctors and patients. These findings suggest that not every adverse healthcare outcome can automatically be categorized as medical negligence or a criminal act.

Table 4. Data on Medical Disciplinary Complaints Handled by MKDKI

Description	Amount
Complaints of alleged medical malpractice (2006–2012)	160 cases
Cases that have been decided	51 cases

Doctor/dentist who was examined	86 people
Proven to have violated discipline	38 people
Not proven to have violated discipline	48 people
Complaints are influenced by doctor-patient communication problems	±80%

Source: Arieswati (2012); Purba, Penmaley, and Panjaitan (2023).

These data indicate that not all public complaints result in evidence of disciplinary violations or medical negligence. Therefore, determining a doctor's criminal liability cannot be based solely on the harm or death of a patient, but must also consider the level of culpability, professional standards, and the results of professional disciplinary hearings. In the context of emergency care, this approach is crucial for distinguishing between medical risk, culpa levis, and culpa lata before imposing criminal sanctions.

Although detailed, recent national data published in detail is still limited following the institutional transformation through Law No. 17 of 2023, the MKDKI data still shows that disputes and alleged violations of medical discipline are a real problem in Indonesian healthcare practices.

Applying this concept to real-life cases presents evidentiary challenges, particularly the causal relationship often disputed by expert witnesses. For example, in an emergency cesarean section, the failure of the baby to survive does not necessarily indicate negligence if the mother experiences unanticipated hemorrhagic shock.

3.3. Medical Risks as an Inherent Consequence of Medical Actions: Legal Doctrine, Causal Factors, and Criminal Limitations in Emergency Services

Medical risk is defined as the possibility of complications or undesirable consequences from medical procedures, even though the physician has acted in accordance with professional standards and standard operating procedures. This concept is a fundamental foundation in health law doctrine because it recognizes

that medicine is not an exact or certain science, but rather a science of probability influenced by biological, physiological, and environmental variables that cannot be fully controlled by medical personnel (Bustami, 2011). In emergency services, medical risks become increasingly prominent due to the critical condition of patients, limited decision-making time, diagnostic limitations, and the multitasking pressures experienced by doctors in the emergency department (ER).

Medical risk factors include:

a. Patient factors: Advanced age, comorbidities (e.g., diabetes, hypertension), drug resistance, or unpredictable immune response;

b. Procedural factors: The complexity of interventions such as cardiopulmonary resuscitation (CPR) or tracheal intubation which have a 20-30% failure rate even in expert hands;

c. Environmental factors: Equipment limitations (e.g., broken ventilators), overcrowding of the ER, or mass emergencies such as disasters.

d. Human factors: Variability in doctors' skills even though they are certified, fatigue due to long shifts.

The fundamental difference between medical risk and medical negligence lies in the presence or absence of deviations from professional standards (lege artis). Medical risk occurs when a doctor's actions are in accordance with SOP, properly documented, and proven by expert witnesses as reasonable clinical judgment. Therefore, a poor outcome cannot be used as a basis for criminal prosecution based on the principle of geen straf zonder schuld (no crime without fault). Negligence requires evidence of a concrete deviation, such as failing to perform a basic examination or ignoring a vital sign monitor alarm. This legal doctrine is recognized in Indonesian jurisprudence, where the Supreme Court frequently acquits doctors if it is proven that the actions fell within the spectrum of reasonable risk.

In emergency care, medical risks are often misunderstood as negligence by the public due to the expectation of "100% survival." This has the potential to lead to the criminalization of the medical profession and defensive medicine, where doctors avoid high-risk procedures such as stroke thrombolysis due to fear of litigation, thus reducing overall patient outcomes. Legal prevention includes comprehensive emergency medical records, independent medical councils, and good samaritan laws that protect physicians who act in good faith.

Table 5. Medical Risk Factors vs. Indicators of Negligence in Emergency

Category	Medical Risk (Non-Criminal)	Medical Negligence (Potential Criminal Law)
Clinical Decision	According to SOP even though the results are bad [Soewono, 2007]	Ignore basic SOPs (e.g. no ABC)
Documentation	Complete, justified risk	No record or fake
Expert Evidence	Reasonable in emergency conditions	A clear deviation from the artist's lege
Sample case	Failed CPR in cardiac arrest patient	Delay intubation >30 minutes without reason

Source: Adapted from legal and forensic medical literature

3.4. Legal Obligations for First Aid to Emergency Patients: Normative Analysis, Sanctions, and Corporate Responsibilities of Hospitals

Emergency services are characterized by urgency and directly involve life-saving measures, so health law places an absolute obligation on medical personnel and facilities to provide first aid without exception. Law Number 17 of 2023 concerning Health serves as the primary normative basis, defining an emergency as "a clinical condition requiring immediate action to save life or prevent disability" (Article 1). Article 174 explicitly requires every health care facility (hospital, community health center, clinic) to provide first aid without discrimination and without delay.

Specific prohibitions include:

a. Patient refusal for economic reasons (no down payment);

b. Delays due to administration (KTP, BPJS);

c. Discrimination based on social status or diagnosis.

Article 275 prohibits delaying emergency services, while Article 438 stipulates criminal sanctions for facility managers, doctors, or health workers who intentionally withhold assistance, with the threat of up to two years in prison or a

fine of Rp 100 million, increased if death results. These sanctions reflect the state's priority on the right to life (Article 28A of the 1945 Constitution).

In practice, cases of patient rejection are still rampant, such as the case of a hospital in Jakarta that refused an accident patient because it was "full capacity" even though there were available beds. This phenomenon contradicts the principle of vicarious liability, which holds hospitals, as corporations, responsible for the actions of their employees (doctors/nurses), based on Article 1365 of the Civil Code and the doctrine of corporate negligence. Corporate responsibility includes providing adequate facilities, staff training, and clear triage SOPs. Prevention is carried out through a national monitoring system and administrative sanctions by the Ministry of Health.

Table 6. Hierarchy of Sanctions for Violations of First Aid Obligations

Violation Level	Normative Description	Criminal Sanctions (Law 17/2023)	Additional Sanctions
Direct Rejection	Not accepting emergency patients [Article 438]	2 years imprisonment/Rp. 100 million fine	Revoke practice license
Delay	Delay >30 minutes due to admin [Article 275]	Minor crime	Ministry of Health administrative sanctions
Discrimination	Rejection based on status [Article 174]	Criminal + disqualification	Civil damages

Source: Law No. 17 of 2023 and case analysis

3.5. Legal Construction of Doctors' Criminal Liability in Handling Emergency Patients: Cumulative Elements, Exceptions, and the Ultimum Remedium Principle

Example: The construction of a doctor's criminal liability must be proportionate to balance the protection of patients and the medical profession, with criminal law as the ultimum remedium (last resort) after ethical, disciplinary, and civil law. The cumulative elements include:

a. Unlawful acts: Deviations from professional standards or SOPs;

b. Elements of fault: Culpa lata (gross negligence), not levis;

c. Losses: Proven death/injury;

d. Causal relationship: The doctor's actions are the proximate cause;

e. No justification/excuse: Emergency doctrine, necessity defense.

In modern healthcare practice, not every adverse outcome from a medical procedure automatically qualifies as criminal negligence. The assessment of suspected negligence must first consider the results of professional disciplinary examinations, standard operating procedures, objective conditions of care, and relevant expert testimony. This approach is crucial to ensuring that criminal law remains the ultimum remedium and is not overused against medical personnel who have acted in accordance with professional standards and in good faith in an effort to save patients.

The emergency doctrine protects doctors who act to save lives even without consent, while the good samaritan principle provides immunity from prosecution if the action is bona fide. In the Criminal Code, Articles 48 (justification) and 51 (emergency) serve as the basis for exceptions. This construction prevents the criminalization of medical risks.

Table 7. Elements of Criminal Construction of Emergency Physicians

Elements	Proof Criteria	Exceptions (Defense)
Act against the law	SOP Deviation	Emergency doctrine
Error	Culpa lata	Best effort documented
Causality	]Proximate cause via forensics	Intervening cause (comorbidity)

Source: Medical criminal law doctrine.

4. Conclusion

A doctor's criminal liability in the treatment of emergency patients is determined by proving the elements of fault, a causal relationship, and any deviation from professional standards and operational procedures. Therefore, not every adverse outcome of medical treatment can be immediately considered criminal negligence

due to the inherent medical risks inherent in medical practice. Under Law Number 17 of 2023 concerning Health, doctors and healthcare facilities are required to provide immediate, non-discriminatory care to emergency patients, so refusal or delay in treatment can result in legal consequences. However, the application of criminal sanctions must still take into account objective conditions, such as limited facilities, clinical urgency, and the doctor's best efforts within their professional competence. The criminal liability of doctors needs to be placed proportionally with criminal law as the ultimum remedium to create a balance between patient protection and the protection of the medical profession. This study also shows that medical disputes and medical disciplinary complaints remain a pressing issue in the Indonesian healthcare system. Therefore, this study recommends harmonizing Articles 174 and 438 of Law Number 17 of 2023 concerning Health with the principle of ultimum remedium in criminal law. Furthermore, technical guidelines are needed for investigators, prosecutors, and judges to objectively differentiate between medical risks, culpa levis, and culpa lata in emergency care. The role of professional disciplinary institutions prior to the use of criminal instruments also needs to be strengthened to ensure that law enforcement processes continue to address the specific characteristics of the medical profession. Furthermore, legal protection for physicians who act in good faith (bona fide) and in accordance with professional standards in emergency situations needs to be strengthened to prevent the criminalization of medical risks and the development of defensive medicine practices that can reduce the quality of healthcare services. Strengthening the professional disciplinary mechanism through the Professional Disciplinary Council also needs to be optimized as an instrument for early resolution of medical disputes before the use of criminal instruments, so that a balance between patient protection and legal certainty for medical personnel can be achieved.

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