



Contents lists available at [Elora Center](#)

Lentera Negeri

Journal homepage: <https://lentera.eloracenter.org/lentera>



Legal responsibility of hospital directors in doctor-patient medical disputes

Lisa Arttistika Pabidang^{*)}, Nadir Nadir, Adriana Pakendek

Faculty of Law, University of Madura, Madura, Indonesia

Article Info

Article history:

Received Jul 16th, 2026

Revised Jul 30th, 2026

Accepted Jul 31th, 2026

Keyword:

Director,
Medical,
Hospital,
Liability,
Disputes

ABSTRACT

The objectives of this study include: (1) analyzing the legal responsibilities of hospital directors in the resolution of medical disputes between doctors and patients; and (2) analyzing the resolution of medical disputes between doctors and patients that occur in hospitals. The type of research used in this study is normative legal research. The legal sources used are divided into several categories, namely primary, secondary, and tertiary legal sources. Legal analysis was conducted using the deductive method. The results showed that the legal liability framework for the Hospital Director based on the doctrine of vicarious liability in resolving medical disputes combines aspects of material law (who is responsible and on what basis) and formal/procedural law (how the dispute is resolved). Article 193 of Law No. 17 of 2023 concerning Health explains that the Hospital is responsible for the negligence of medical/health personnel working under its auspices. Hospital directors can be held directly accountable if proven negligent in managing the service system, supervision, facilities, and patient complaint resolution mechanisms, and can also bear indirect responsibility for the negligence of medical personnel or health human resources under their supervision through the principles of institutional responsibility and vicarious liability. However, this responsibility is not absolute, because the relationship between doctor and patient is essentially an obligation of effort or inspanning verbintenis, not an obligation of results, so that medical failure does not automatically constitute a basis for legal responsibility if the doctor has acted in accordance with professional standards, service standards, and applicable operational procedures.



© 2026 The Authors.

This is an open access article under the CC BY-NC-SA license
(<https://creativecommons.org/licenses/by-nc-sa/4.0>)

Corresponding Author:

Lisa Arttistika Pabidang

✉ lisa.pabidang@gmail.com

Introduction

Health is a fundamental human right, and every country is committed to providing fair and quality access to healthcare services to its population (Hermawan & Subroto, 2021). As an integral part of the healthcare system, hospitals play a crucial role in delivering quality healthcare services (Abdi et al., 2022). The integrity and safety of healthcare services are key elements in meeting patient needs and maintaining public trust (Nasirin et al., 2023). These services include inpatient, outpatient, and emergency care (Law No. 17 of 2023).

In Indonesia, healthcare services have undergone substantial changes in recent years. With a growing population and increasing complexity of health challenges, the Act of The Republic of Indonesia Number 17 of 2023 concerning health is expected to provide a strong legal foundation for improving the national healthcare system. In this context, hospitals, as part of the healthcare system, are responsible for complying with and implementing the law (Priyadi et al., 2023). The operation of

hospitals, as regulated in Article 185 of the Health Law, may be carried out by the central government, local governments, or the community. Furthermore, hospitals established by the community must be legal entities engaged in the field of hospital management (Law No. 17 of 2023). Article 186(1) of Law No. 17 of 2023 on Health (Health Law) states that a hospital's organizational structure must consist, at a minimum, of management, medical services, nursing, medical and non-medical support, administrative operations, and operational units. Hospitals, as institutions, are legally liable for all damages resulting from negligence committed by healthcare personnel at the hospital, including the director.

One of the key positions in a hospital is that of the hospital director. The hospital director's responsibilities encompass the overall management of the hospital, including matters related to medical disputes that arise between medical staff and patients. The hospital director bears responsibility in medical disputes, including liability for the negligence of medical staff under his or her supervision. The liability of the hospital and the hospital director is not limited to the negligence of medical staff (doctors) alone but also extends to the negligence of other healthcare personnel such as nurses, midwives, and other healthcare workers. In some cases, the hospital director may face legal action directly, especially if negligence in the management of the hospital is proven. Article 193 of the 2023 Health Law explicitly states that hospitals are legally liable for all damages resulting from negligence committed by the hospital's healthcare personnel. Therefore, as the head of the hospital, the director is responsible for handling disputes that arise within the hospital, such as medical disputes between doctors and patients. Basically, the hospital director is responsible for three things, namely responsibility related to the duty of care (the obligation to provide good health services), responsibility for facilities and equipment; and responsibility for personnel. (Andrianto, 2025). Law No. 17 of 2023 concerning Health, Article 193 regulates that the hospital director is legally responsible for all losses caused by negligence committed by the hospital's health human resources.

Law No. 17 of 2023 on Healthcare provides an opportunity for users of services or patients to file a lawsuit/claim against healthcare providers if a conflict arises between patients and healthcare providers who are deemed to have violated their rights, acted too late or failed to act, thereby causing harm to service users or property or injury or death. The occurrence of disputes in the form of medical disputes is a conflict or confrontation that arises when a patient's expectations regarding the medical treatment process to cure their illness are not met. Generally, the triggers for such dissatisfaction are unmet expectations, coupled with a lack of effective communication or insufficient information provided by the doctor, leading the patient to file a lawsuit in court. The lawsuit filed by the patient is an effort to resolve the medical dispute. In principle, the resolution of medical disputes involving doctors and patients is encouraged to be settled through non-litigation means (settlement outside of court), specifically through mediation first. Given that court proceedings, as mentioned, take a long time to resolve, they naturally also entail higher costs

The resolution of medical disputes arising between doctors and patients is the responsibility of the hospital director. The liability of the hospital and its director is not limited to medical malpractice by doctors alone. The hospital is also liable for negligence on the part of other medical personnel, such as nurses and other healthcare workers. In some cases, the hospital director may also face legal action directly, particularly if negligence in hospital management is proven. Article 193 of the 2023 Health Act explicitly states that hospitals are legally liable for all damages resulting from negligence committed by the hospital's healthcare personnel.

Several studies on hospital liability have been conducted previously. In the case of Tawulo (2020) explains that the burden of liability for each party is governed by the provisions of Articles 1365, 1366, and 1367 of the Civil Code, as well as the Health Law and Article 46 of the Hospital Law. The burden of liability may be resolved proportionally based on an agreement between the parties. In principle, hospitals, medical personnel, and healthcare workers are entitled to legal protection if, in performing medical procedures, they meet three criteria, namely working in accordance with: a) professional standards; b) standard operating procedures; and c) ethical standards. Pratomo (2020) found that the legal protection and liability of hospitals, medical personnel, and healthcare workers regarding medical disputes with patients while providing healthcare services in hospitals are governed by the provisions of Articles 1365, 1366, and 1367 of the Civil Code, as well as the Health Law and Article 46 of the Hospital Law. The burden of liability may be resolved proportionally based on an agreement between the parties. Jeumpa (2025), it was found that the Director of Jeumpa Maternity Hospital was held personally liable to compensate for losses incurred by the hospital as a business entity under his management, as he had exercised his authority beyond the scope of his official duties and responsibilities. Andrianto (2024) explains that the liability and legal protection of hospitals, medical personnel, and healthcare workers in medical disputes are governed by Article 46 of the Hospital

Law, which states that hospitals are legally liable for all damages caused by negligence on the part of healthcare workers at the hospital.

This study offers a novel perspective by focusing on the responsibilities of the hospital director who is part of the hospital's organizational structure whereas previous studies have tended to focus on the responsibilities of the hospital as an institution. The responsibilities of the hospital director examined in this study are grounded in various legal and theoretical aspects, thereby reinforcing the novelty and urgency of this research within the field of legal liability studies. This study focuses on the responsibilities of hospital directors in the resolution of medical disputes. Hospital directors bear significant responsibilities in medical disputes, including liability for the negligence of medical personnel under their supervision. Hospitals, as institutions, are legally liable for all damages resulting from negligence committed by their healthcare personnel, including the director. The objectives of study include 1) analyzing the legal liability of hospital directors in the resolution of medical disputes between doctors and patients; and 2) analyzing the resolution of medical disputes between doctors and patients that occur in hospitals.

Literature Review

Theory of Legal Liability

The theory of legal liability is a theory that analyzes the liability of a legal subject or perpetrator who has committed an unlawful act or a criminal offense to bear the costs or losses or to serve a criminal sentence for their fault or negligence. Legal responsibility stems from or arises from the use of facilities in the exercise of each person's ability to exercise their rights or fulfill their obligations (Matippanna, 2022). This means that every implementation of obligations and every use of rights, whether done inadequately or adequately, must essentially be accompanied by accountability, as does the exercise of power. Meanwhile, according to Jimly Asshiddiqie, a person is legally responsible for certain actions, and that they can be subject to sanctions if their actions are contrary to or contrary to the law (Matippanna, 2022). This implies that the sanction is imposed on them (*deliqué*) because their own actions make them responsible.

In the civil field, some use the term "liability" as a translation of the word "liability," while the term is used to translate the word "responsibility" (Khoidin, 2024). In its practical meaning and use, the term "liability" refers to legal responsibility, namely, liability for errors committed by legal subjects. Meanwhile, the term "responsibility" refers to political responsibility. Responsibility in civil law is a person's willingness to sacrifice themselves to face the worst-case scenario associated with a contract or legal relationship with another person (Dresser and Elgin, 2023). In other words, responsibility in civil law is defined as the readiness to answer for actions someone has taken in the past or actions that will have future consequences related to their contract with another person.

In Indonesian civil law, there is also an extension of individual responsibility, or vicarious liability, which can be understood as a substitute responsibility imposed on a party responsible for someone for the actions of their dependent party, known as the concept of vicarious liability. Within the concept of vicarious liability, there are two doctrines related to the development of responsibility: the doctrine of *respondeat superior* and the doctrine of ostensible agency or apparent agency. (Wahyu, 2025) The doctrine of *respondeat superior* holds an employer legally responsible for claims against its employees acting within the scope of its employment. (Subekti, 2022) Thus, in the application of the doctrine of *respondeat superior*, there is a pattern of legal responsibility in which the employer is legally responsible for its subordinates, the principal is legally responsible for its agents, and the master is legally responsible for its servants. The theory of responsibility requires a principle governing the sanctions to be imposed when a violation occurs. This principle is *nullum delictum, nulla poena sine pravia lege*, or the principle of legality. The meaning of the above principle is "no punishment if there is no fault." This further strengthens the validity of a person's actions when committing a mistake. This means that if someone commits an act that does not contain an element of fault or a criminal element, that person cannot be held accountable.

In the theory of liability, there must be a principle governing the sanctions to be imposed when a violation is committed; this principle is "*nullum delictum, nulla poena sine pravia lege*," or the principle of legality, which means "no punishment without a crime." This further reinforces the notion that if a person commits an act that lacks elements of fault or criminality, that person cannot be held liable. The hospital director must also be centrally responsible for its facilities (facilities, infrastructure, and equipment) and for the implementation of the duty of care. Hospital negligence is not only committed by health human resource professionals working in hospitals, but also caused by infrastructure and equipment provided by hospitals, for example damaged or defective medical equipment, inadequate or

poorly maintained hospital buildings or grounds that result in injuries or accidents or unwanted incidents to patients, patient families or hospital visitors. In addition, duty of care is a legal responsibility held by the hospital director, meaning that the hospital is obliged to provide the best and quality health services for patients

Theory of Justice

One of the most renowned experts on justice theory is John Rawls. According to John Rawls, justice is viewed from two perspectives: *fairness* and *the veil of ignorance*. The concept of *fairness* holds that justice can be achieved if everyone has the same and equal standing and status. By “equal,” Rawls means that justice can be achieved if people are not judged based on their wealth, intelligence, or social status. Meanwhile, justice viewed through *the “veil of ignorance”* ensures that justice is achieved without any party gaining an advantage or suffering a disadvantage in the selection of principles of equality (Harefa, 2020). Based on this, justice is an achievement that can be attained by all parties by applying equality without discriminating against one another.

These values of justice must serve as a foundation to be realized in the life of the nation in order to achieve the state’s objectives, namely ensuring the welfare of all its citizens and across all its territories, and fostering the intellectual development of all its citizens. Likewise, these values of justice serve as the foundation for relations among nations worldwide and as the principles for creating order in international coexistence, based on the principles of independence for every nation, lasting peace, and justice in coexistence (social justice) (Harefa, 2020).

Dispute Resolution Theory

Dispute Resolution Theory, also known as Conflict Resolution Theory or Dispute Settlement Theory, examines and analyzes various methods for resolving conflicts or disputes between disputing parties. This theory encompasses various methods, ranging from formal dispute resolution through the courts to alternative dispute resolution (ADR) such as mediation, arbitration, and negotiation. This approach emphasizes dialogue, communication, and finding solutions acceptable to all parties in dispute. Unlike litigation, which results in a win-lose decision, ADR emphasizes collaborative resolution and prioritizes the interests of all parties. Therefore, ADR is often viewed as a more flexible, participatory dispute resolution mechanism, capable of maintaining social relations between conflicting parties (Pratama and Siregar; Nugroho & Santoso, 2025).

The legal responsibilities of hospital directors are regulated by Minister of Health Regulation Number 39 of 2014 concerning the Guidance, Supervision, and Licensing of Hospital Directors. In general, hospital directors are responsible for the services provided to patients. Violations of regulations and practices that do not comply with standards can result in legal liability, including sanctions and criminal charges. The legal responsibilities of hospital directors are regulated by Minister of Health Regulation No. 39 of 2014 concerning Guidance, Supervision, and Licensing of Hospital Directors’ Duties. In general, hospital directors are responsible for the services provided, particularly in the fabrication and fitting of removable dentures. Violations of regulations and practices that do not comply with standards may result in legal liability, including sanctions and criminal penalties.

Law of the Republic of Indonesia No. 44 of 2009 on Hospitals, which is now incorporated into Law No. 17 of 2023 on Health, states that a hospital is a health care institution that provides comprehensive individual health care services, including inpatient, outpatient, and emergency care. Hospitals are no longer merely facilities where health services are provided. Rather, they are legal entities with rights and obligations, namely to provide comprehensive individual health care services.

Medical treatment provided by doctors to patients in hospitals begins with an initial contractual relationship, namely a medical care contract between the patient and the hospital. A medical care contract in a hospital is a broad agreement. Medical action is any form of diagnostic, therapeutic, or rehabilitative treatment performed by medical personnel on patients, which is based on informed consent, professional standards, and aims to maintain and restore health (Indina, 2024). Based on this, medical action in a hospital is the main thing in the substance of the medical care contract in the hospital, both from the aspect of the legal relationship between the hospital and the patient and the legal responsibility attached to the hospital apparatus. The medical care contract contains broad aspects.

Method

This study is a legal research project, which is a process of identifying legal rules, legal principles, and legal doctrines to address the legal issues at hand (Marzuki, 2024). This research employed a normative or library legal approach by analyzing legal literature materials (Benuf & Azhar, 2020). Normative legal research also means doctrinal legal research (Djulaeka and Rahayu, 2020). Doctrinal legal research is research that systematically explains the rules governing a particular legal category, analyzes the relationships between regulations, explains difficult areas, and allows for predictions of future developments. Normative legal research serves to provide legal arguments when there is ambiguity, gaps, or conflict within a norm.

This research employs a normative *juridica* director approach by examining the legal norms and regulations governing the responsibilities of hospitals in handling emergency patients in Indonesia. The study focuses on the analysis of statutory provisions, legal principles, and case law to understand the scope of hospital director responsibility, especially as outlined in Law No. 17 of 2023 on Health and civil law. The approaches used in this research were legislative and conceptual. The legislative approach involves the examination of several regulations relevant to the research topic, including the Act of The Republic of Indonesia Number 17 of 2023 Concerning Health in Indonesia and civil law.

In data collection, this research utilizes three sources of legal materials: primary, secondary, and tertiary (Tan, 2021). Primary legal materials encompass legislative regulations, including the 1945 Constitution (UUD 1945), the Civil Code, and Law No. 17 of 2023 on Health. Secondary legal sources include all legal publications that are not official documents, such as books, journals, and legal articles. Meanwhile, tertiary legal materials include a law dictionary, a law encyclopedia, (Marzuki, 2024), as well as books outside the field of law obtained via the internet, dictionaries, or guides to writing academic papers, among others.

Analysis of legal materials using the deductive method involves several steps that the author must follow when conducting legal research, namely (Marzuki, 2024): identifying legal facts; collecting legal and non-legal materials; analyzing legal issues; drawing conclusions in the form of arguments to address the legal issues raised; and presenting a thesis. The legal analysis will discuss the civil legal liability inherent in the hospital director based on the doctrine of Vicarious Liability, unless it can be proven that there was a personal action (*persoonlijke aansprakelijkheid*) outside the authority of his position that violates the law (*ultra vires*). In resolving disputes, the hospital director has an obligation to mediate or take alternative dispute resolution routes before or during the civil litigation process.

Results and Discussions

The Legal Liability of Hospital Directors in the Resolution of Medical Disputes Between Doctors and Patients

Hospitals are legally liable for damages caused by the negligence of healthcare personnel within the hospital (RI, 2023). Pursuant to Article 193 of Law No. 17 of 2023, hospitals are legally liable for damages caused by the negligence of healthcare personnel within the hospital. A hospital's legal liability toward patients in the provision of medical services arises from a civil law relationship; however, the provision of medical services also has implications under administrative and criminal law. This study focuses on the civil legal responsibilities of hospital directors, which are also examined in accordance with Law Number 17 of 2023 concerning Health.

Essentially, hospitals are legally liable for negligence committed by their physicians. This aligns with the Doctrine of *Vicarious Liability*. The Doctrine of *Vicarious Liability* branches into the *Respondeat Superior* Doctrine and the *Ostensible or Apparent Agency* Doctrine. The *Respondeat Superior* Doctrine limits the hospital's legal liability to its permanent doctors only. Meanwhile, the *Ostensible or Apparent Agency Doctrine* extends the hospital's legal liability to all of its doctors.

The doctrine of *corporate liability* is an extension of the doctrine of vicarious liability. This doctrine arose because patients cannot know the status of each doctor they consult. Thus, it is hoped that under this doctrine, hospitals can be held legally liable for all incidents that occur *within hospital walls*. Based on liability theory, a hospital, as a corporation or company, must be held responsible for the doctors working there. The hospital acts as an employer responsible for its employees. Although this doctrine originated and developed within the *common law* system, in our country which follows a different legal system, namely *civil law* it has been regulated by law, specifically in Article 193 of Law No. 17 of 2023 on Health, which states: "Hospitals are legally liable for all damages caused by negligence committed by hospital personnel," as well as in Articles

1365, 1366, and 1367 of the Civil Code, which govern an employer's liability for the actions of its subordinates; in this context, the employer is the hospital that employs doctors as subordinates.

The legal liability of hospitals in providing medical services to patients is examined from the perspectives of professional ethics, administrative law, and, in particular, civil law, including sanctions such as removal from office for authorized officials and the payment of damages as a form of hospital liability, as well as the imposition of criminal penalties in accordance with applicable laws and regulations. This is also stipulated in Article 193 of Health Law No. 17 of 2023 on Health. Therefore, in the event of medical error or negligence, it is important to determine the extent of the legal consequences of the healthcare professional's actions and the factors used to determine whether such error or negligence occurred. Hospitals' legal responsibilities are often not fully enforced due to the persistent paternalistic relationship between providers and recipients of healthcare services. A paternalistic relationship is a superior-subordinate relationship. In this paternalistic relationship, the doctor is positioned as the superior and the patient as the subordinate. Patients are unaware of their inherent rights, including the right to information, which is why doctors often perform medical procedures without providing adequate information to the patient (Pabidang, 2022).

The hospital director is responsible for managing the hospital's human, financial, and physical resources. The hospital director must also ensure a qualified staff, adequate budget allocation, and proper infrastructure maintenance, as well as develop long-term policies and strategies for the hospital. The director must understand patient needs and trends in healthcare and identify opportunities to improve the quality and accessibility of services. The hospital director is responsible for ensuring that the medical services provided meet high standards of ethics and professionalism. They must ensure that clear protocols and procedures are implemented and that quality monitoring is conducted to ensure patient safety (Pabidang, 2022).

Hospital directors must also play a role in building relationships with external stakeholders such as regulatory bodies, government agencies, and other stakeholders. Their responsibilities lie with hospital management, which must ensure active participation in public health programs and collaboration with other institutions to improve health services; comply with applicable regulations and laws; protect patients' rights; and ensure adherence to medical ethics and standards of professionalism. If errors occur in the form of medical malpractice or negligence, civil, administrative, and criminal liabilities arise. In the medical field, there have been several incidents resulting in disability or even death among patients undergoing treatment; the public often concludes that negligence was involved in such cases. The majority of Indonesians believe that the failure of medical procedures constitutes negligence and that even failing to seek medical help is tantamount to a criminal offense. This is not entirely accurate when it comes to criminal law, as the focus is on the consequences of the crime (Agustina & Hariri, 2022). In medical practice, the emphasis is on the process. Therefore, the practice of medicine is characterized by an "*inspannings verbintennis*" (a commitment focused on maximum effort) rather than a "*resultataats verbintennis*" (a commitment focused on results). However, when making maximum effort, it is necessary to adhere to standard professional medical parameters (Ginsyah, 2024).

Failure to provide medical care may result in criminal charges if the following factors are met: a deviation from medical professional standards, including *culpa lata* (gross negligence), which could lead to fatal or serious consequences. This may constitute a civil lawsuit if the following elements are met: a deviation from medical standards where culpa is present even if it is only *culpa levis* (minor negligence); there is damage; and there is a causal relationship between the failure to provide treatment and the harm (Agustina & Hariri, 2022).

Some legal resolutions resulting from medical malpractice due to negligence or medical errors must be focused on the patient's recovery and well-being, whereas criminal and civil resolutions require lengthy processes (Syah, 2019). Therefore, when handling medical malpractice, care must be taken to ensure proportionality, with the goal of treating patients through non-litigation procedures and mediation, which is the ultimate responsibility of hospital management. In accordance with Health Law No. 17 of 2023, if a healthcare professional is suspected of professional negligence, the matter must first be addressed through mediation. The legal basis for the liability of hospital directors centers on their unique role, in which they are not only responsible as managerial (corporate) leaders but also bear responsibility for the quality of medical care and patient safety (clinical). This legal basis is regulated at multiple levels through the latest health laws, civil law, criminal law, and administrative law. The legal basis for the liability of hospital directors is explained below.

The 1945 Constitution of the Republic of Indonesia structure of a hospital director's responsibilities, as viewed through the mandate of the 1945 Constitution, is explained below : (1) Fulfillment of the State's

Obligations Regarding Health Care Facilities. The responsibilities of the hospital director are defined such that the director serves as an extension of the state (in government hospitals) or a partner of the state (in private hospitals) to fulfill this provision. The director bears full legal and moral responsibility for ensuring that the hospital under his or her leadership provides health facilities, resources, infrastructure, and equipment that are adequate, safe, properly calibrated, and meet public service quality standards; (2) Fulfillment of Human Rights to Health Care. It is the responsibility of hospital directors to develop, implement, and evaluate Standard Operating Procedures (SOPs) to ensure the constitutional rights of citizens; and (3) Constitutional (Operational) Legal Responsibilities. The mandates of the Preamble and Articles of the 1945 Constitution are subsequently incorporated into hospital-specific regulations. Based on these constitutional provisions, hospital leadership bears real operational responsibilities, including legal liability for negligence (*vicarious liability*) and *good corporate and clinical governance*.

Although the 1945 Constitution does not explicitly mention the term “Hospital Director,” every policy, decision, and standard operating procedure (SOP) signed by a Hospital Director is a vital legal instrument for carrying out the constitutional mandate to protect the entire Indonesian nation and promote the general welfare through the health sector

Law No. 17 of 2023 on Health

The implementation of this constitutional mandate was realized through the enactment of Law No. 17 of 2023 on Health (here in after referred to as the 2023 Health Law), which supersedes several previous laws and regulations in the health sector. This law comprehensively regulates the operation of hospitals, including the organizational structure and legal responsibilities of hospital directors. Under Law No. 17 of 2023 on Health, the legal basis for the responsibility of hospital leadership or management is established through the concept of institutional liability. The hospital director is responsible for ensuring that the hospital meets standards for operational adequacy, licensing, facilities, and legal protection for the human resources (HR) working there.

Under Law No. 17 of 2023 on Health (*the Omnibus Health Law*), there have been significant shifts and strengthening of the legal responsibilities of a hospital director. Under this new law, the Director’s responsibilities are closely integrated between management governance (corporate) and clinical governance (patient safety). The details of a hospital director’s responsibilities under Law No. 17 of 2023 are explained below.

Legal liability for staff negligence one of the most crucial provisions governing the Director’s civil and corporate liability is Article 193, which states: “The hospital is legally liable for all damages caused by negligence on the part of the hospital’s healthcare personnel.” As the hospital’s legal representative in civil matters, the Director is the party required to appear in court or at a mediation forum if a patient files a claim for damages. To minimize this risk, the Director bears full responsibility for establishing a *credentialing* system (strict screening of physicians’ competencies) and internal oversight committees.

Ensuring quality of care and *patient* safety the Director is responsible for overseeing the delivery of individual health care services that meet national quality standards. This includes, among other things: a) Providing comprehensive services. Ensuring that the hospital provides safe and non-discriminatory promotive, preventive, curative, and rehabilitative care; and b) Implementing Good Clinical *Governance* must establish a Medical Committee, a Nursing Committee, and a Committee for Other Healthcare Personnel to monitor professional ethics and quality within the hospital.

Obligation to handle emergency situations The Health Law imposes strict mandates regarding emergency situations. The Hospital Director is responsible for ensuring that the hospital’s systems: a) It is prohibited to refuse patients hospitals are required to provide life-saving (*stabilization*) care to emergency patients.; and b) No Advance Payments Allowed: Management, under the director’s direction, is prohibited from collecting an advance payment (down payment) from patients or their families in emergency situations

Responsibility for Providing Facilities and Protecting Human Resources the director is responsible for ensuring compliance with managerial and infrastructure requirements, including: a) Compliance standards to ensure that facilities, infrastructure, medications, and medical devices are licensed, certified, and routinely calibrated so as not to endanger patients; and b) Under Law No. 17 of 2023, legal protection for employees places a significant emphasis on protecting doctors, nurses, and other healthcare workers. The director is responsible for providing a safe work environment and offering legal assistance or protection to hospital staff facing medical disputes, provided they are performing their duties in accordance with standard operating procedures (SOPs).

Corporate Criminal Liability under the new legal framework, hospitals can be held criminally liable (corporate criminal liability). If systemic negligence is found for example, if a director intentionally allows the use of expired or unlicensed medical equipment to cut costs, thereby causing a patient's disability or death the hospital director may be held criminally liable as the person who gave the order or led the corporation.

Civil Law (Civil Liability)

In the realm of civil law, the liability of a hospital director is inherent in their position as an officer of a *legal entity*, as regulated in: (1) Article 1655 of the Civil Code (KUHPperdata), under which the director acts on behalf of the hospital both in and out of court; (2) The doctrine of *vicarious liability* (Article 1367 of the Civil Code), under which a person (in this case, the hospital represented by the director) is liable not only for damages caused by their own actions but also for damages caused by the actions of persons under their supervision (medical and healthcare personnel); and (3) The Limited Liability Company Law (Law No. 40 of 2007) stipulates that if a hospital is organized as a limited liability company (private hospital), the director is subject to the principle of *fiduciary duty* (Articles 92 and 97), under which the director is obligated to manage the company in good faith and with full responsibility. If losses occur due to the Director's personal negligence, he or she may be held liable up to and including his or her personal assets (*piercing the corporate veil*).

Criminal Law (Criminal Liability)

Regulations regarding negligence by healthcare workers in legislation. Regulations on medical malpractice and criminal sanctions for negligence by healthcare workers are explained in Article 440 of Law No. 17 of 2023 concerning Health. This article regulates criminal sanctions for medical personnel who commit negligence or omission in carrying out their duties, which is inconsistent with the *lex specialis* paradigm of healthcare law. Healthcare law has specific characteristics that distinguish it from general criminal law, given the unavoidable therapeutic risks inherent in medical practice. Therefore, the application of criminal sanctions must take into account the context of the medical practice and the risks inherent in every medical procedure (Pabidang et al., 2024). A hospital director may be subject to criminal liability through two avenues, namely: (1) Corporate Criminal Liability under the new Health Law, hospitals can be held criminally liable as corporate entities. Directors, as individuals who issue orders or act as leaders within the corporation, may be held criminally liable if it is proven that there was systemic negligence or policies that violated the law (for example, operating medical equipment without a license or calibration, resulting in a patient's death); and (2) Complicity in Criminal Offenses (Articles 55 and 56 of the Criminal Code) A director may be considered to have "participated in" or "aided and abetted" a criminal offense if he or she is aware of a violation of criminal law at his or her hospital (such as widespread malpractice, illegal abortions, or the falsification of medical documents) but fails to take preventive measures within the scope of his or her authority.

Administrative Law

The hospital director is fully responsible for compliance with public regulations overseen by the Ministry of Health and local health authorities. Violations of operational standards may result in administrative sanctions imposed on the director, including: (1) A written reprimand; (2) Administrative fines; (3) Recommendation to revoke the Practice License (SIP) of medical personnel who have violated regulations; and (3) Up to the suspension or revocation of a hospital's operating license.

The Director bears full responsibility, which encompasses four main aspects of administrative duties: leading the entire organization, overseeing the hospital's compliance with licensing requirements, and ensuring that periodic reporting to health authorities proceeds smoothly; clinical (medical) responsibilities, including forming a medical committee and approving and evaluating *the clinical* privileges of every physician working under his or her supervision; and civil and criminal legal responsibilities, acting on behalf of the hospital both in and out of court.

Legal Liability of Hospital Directors Based on the Doctrine of Vicarious Liability Under Law Number 17 of 2023 concerning Health and the Civil Code

The civil liability of hospital directors is legally vested in the institution. Law Number 17 of 2023 concerning Health stipulates that hospitals are legally responsible for losses resulting from the negligence of medical or healthcare personnel, applying the principle of vicarious liability, and the division of personal liability of directors through corporate law. Based on Law Number 17 of 2023 concerning Health, the legal liability of a Hospital Director/Head is divided into institutional (corporate) liability and personal liability. Based on Institutional (Corporate) Liability, the director generally acts on behalf of the hospital as a legal entity. Patient losses resulting from medical errors are borne by the institution through the following mechanisms: 1) The

principle of Vicarious Liability, as outlined in Article 193 of Law 17/2023, states that hospitals are legally responsible for all losses incurred due to negligence by medical and healthcare personnel working at the hospital.

The Hospital Director can be held personally legally responsible (both civil and criminal) if 1) Expires / Exceeds Authority (*Ultra Vires*) in making management decisions or medical actions outside the authority of his position or contrary to the Articles of Association / Standard Operating Procedures (SOP) of the Hospital; 2) Management negligence (Corporate Negligence) if there is negligence towards the unsuitability of medical facilities, the absence of a license / SIP of the employed medical personnel, or failure to maintain patient safety standards; and 3) Personal error/ Negligence (Personal Fault) if the director also acts as a responsible doctor and commits malpractice or gross negligence directly. Law No. 17 of 2023 emphasizes the resolution of medical disputes that prioritizes a restorative justice approach and mediation before proceeding to legal channels. Based on Article 310 and Article 322 of Law No. 17 of 2023, it is explained that every dispute resolution between patients and medical / health personnel or Hospitals must be attempted first through mutual consensus or mediation. In addition, the Disciplinary Council's recommendation is that handling of alleged disciplinary or legal violations by medical/health personnel must go through an inspection mechanism by a disciplinary council/institution established by the central government.

According to *the theory of legal liability* proposed by Hans Kelsen, a person is legally liable for a specific act or bears legal responsibility for a sanction in the event of an act that violates a legal norm. In this context, Hans Kelsen also asserts that a failure to exercise the due care required by law constitutes *negligence*, which is a type of fault (*culpa*). If Kelsen's framework is applied to the position of a hospital director, two forms of legal liability can be identified: (a) *direct liability* arising from the director's own negligence in managing the hospital; and (b) *vicarious liability* arising from the negligence of medical and healthcare personnel under their supervision. Both forms of liability stem from the director's capacity as the leader of the institution, who is obligated to ensure safe, effective, and high-quality healthcare standards.

The civil liability of a hospital director arises from the contractual relationship between the hospital and the patient, as provided for in Article 1320 of the Civil Code regarding the validity of agreements, as well as Article 1234 of the Civil Code, which governs obligations to deliver something, to perform an act, or to refrain from performing an act. The legal relationship between the patient and the hospital is an "inspanning verbintenis," that is, an obligation of effort in which what is promised is not the final result such as recovery but rather the maximum effort in accordance with professional standards and standard operating procedures. When a medical dispute arises between a doctor and a patient, the hospital director may be subject to a civil lawsuit under Article 1365 of the Civil Code regarding unlawful acts (*onrechtmatige daad*) or under Article 1367 of the Civil Code, which governs a person's liability for damages caused by individuals under their supervision. The lawsuit may include claims for material damages covering the patient's medical expenses, as well as claims for immaterial damages for the suffering and non-material losses experienced by the patient. The director bears personal legal liability if it is legally proven that he or she committed an unlawful act beyond his or her authority or failed to act in good faith (directors bear personal liability in cases of "*piercing the corporate veil*" or grossly negligent management).

In medical disputes between doctors and patients, the application of the doctrine of vicarious liability places the hospital, represented by the director/manager, as the party civilly liable for losses suffered by patients resulting from the medical actions of their subordinates. The principle of vicarious liability emphasizes that the director is responsible for losses caused by their employees/subordinates in the performance of their duties. According to Article 193 of Law No. 17 of 2023 concerning Health:

"The hospital is legally responsible for all losses incurred as a result of negligence by medical personnel and health workers working at the hospital."

Meanwhile, Article 1367 of the Civil Code (Unlawful Acts by Others) explains that this classic principle of civil law affirms that an individual/legal entity is not only responsible for losses caused by their own actions, but also for losses caused by the actions of those they depend on (employer's liability). When filing a civil lawsuit (Compensation/Unlawful Acts under Article 1365 of the Civil Code), the Hospital Director's position is divided into two aspects: (1) Corporate Liability The Director is the legal entity representing the Hospital both inside and outside of court. Civil lawsuits for compensation due to medical negligence by a doctor are directed against the Hospital (Director). The obligation to pay compensation is borne by the Hospital's finances, not the Director's personal assets. This doctrine applies to both permanent employees and attending physicians, as long as the actions were performed within the Hospital's facilities and service standards; and (2) Director's Personal Liability (Personal Fault) A director can be held civilly liable for

personal assets if the lawsuit proves gross mismanagement (corporate negligence), such as employing an illegal doctor by allowing a doctor to practice without a valid Registration Certificate (STR) or Practice License (SIP), negligence in facilities and equipment by allowing the use of damaged or uncalibrated medical equipment, resulting in a medical accident, and abuse of authority (*Ultra Vires*) by adopting policies that violate the law or the hospital's Articles of Association, resulting in patient harm.

The civil liability of a hospital director stems from the contractual relationship between the hospital and the patient, as stipulated in Article 1320 of the Civil Code concerning the requirements for a valid agreement, and Article 1234 of the Civil Code, which regulates obligations to provide, do, or refrain from doing something. The legal relationship between a patient and a hospital is *inspanning verbintenis*, a contract of effort where the promise is not a final result in the form of healing, but rather maximum efforts in accordance with professional standards and standard operating procedures. When a medical dispute occurs between a doctor and a patient, the hospital director may be subject to a civil lawsuit under Article 1365 of the Civil Code concerning unlawful acts (*onrechtmatige daad*) or under Article 1367 of the Civil Code which regulates a person's liability for losses caused by people under their supervision. The lawsuit may include demands for material compensation for medical expenses incurred by the patient as well as demands for immaterial compensation for suffering and non-material losses experienced by the patient. The director bears the legal risk personally if it is legally proven that he has committed an unlawful act beyond his authority or has not acted in good faith (the director bears personal responsibility if there is a piercing of the corporate veil or a very serious management error).

Conclusions

Based on the results and discussion, it can be concluded that the legal liability framework for the Hospital Director based on the doctrine of vicarious liability in resolving medical disputes combines aspects of material law (who is responsible and on what basis) and formal/procedural law (how the dispute is resolved). Article 193 of Law No. 17 of 2023 concerning Health explains that the Hospital is responsible for the negligence of medical/health personnel working under its auspices. This means that the Director represents the Hospital as a legal entity (*persona moralis*). Civil compensation losses decided by the Court are borne by the Hospital's cash/assets, not personal accounts or assets. This is not only related to the director's position as the structural leader of the hospital, but also inherent in his obligation to ensure the implementation of safe, quality health services, in accordance with professional standards, standard operational procedures, and patient safety principles as guaranteed by the 1945 Constitution, Law No. 17 of 2023 concerning Health, and the Civil Code. Hospital directors can be held directly accountable if proven negligent in managing the service system, supervision, facilities, and patient complaint resolution mechanisms, and can also bear indirect responsibility for the negligence of medical personnel or health human resources under their supervision through the principles of institutional responsibility and vicarious liability. However, this responsibility is not absolute, because the relationship between doctor and patient is essentially an obligation of effort or *inspanning verbintenis*, not an obligation of results, so that medical failure does not automatically constitute a basis for legal responsibility if the doctor has acted in accordance with applicable professional standards, service standards, and operational procedures. Therefore, Health Law No. 17 of 2023 requires dispute resolution to be carried out in stages and in stages by prioritizing a restorative justice approach.

Suggestions that can be put forward include: 1) the need to issue more detailed implementing regulations under the 2023 Health Law that specifically govern the minimum standards for internal medical dispute resolution mechanisms in every hospital; 2) the capacity of the Disciplinary Council, as stipulated in Article 304 of the 2023 Health Law, must be strengthened in terms of human resources, budget, and scope of services so that it can function as an effective pre-adjudication body in screening medical disputes before they are brought to court; 3) Hospital directors must be provided with adequate training in health law, risk management, and conflict resolution as part of the qualification requirements for the position of hospital director; 4) A national information system on medical disputes needs to be developed to enable the systematic collection of data on the types, frequency, and patterns of medical dispute resolution throughout Indonesia.

References

- Abdi, N., Fahmi, S., & Kadaryanto, B. (2022). Tanggung Jawab Hukum Rumah Sakit Terhadap Tindakan Medis Dokter. *Journal of Science and Social Research*, 5(3), 628–631. <https://doi.org/10.54314/jssr.v5i3.1007>

- Agustina, Z. A. Z., dan Hariri, A. (2022). Pertanggung Jawaban Pidana Atas Kelalaian Diagnosa Oleh Dokter Hingga Mengakibatkan Kematian Anak Dalam Kandungan. *Iblam Law Review*, 2 (2), pp. 108-208
- Andrianto, W. (2025). *Tanggung Jawab Hukum Pemerintah dan Rumah Sakit Dalam Penyelesaian Sengketa Medis di Indonesia*, Kencana, Jakarta, 2025
- Djulaeka dan Rahayu.D. (2020). *Buku Ajar: Metode Penelitian Hukum*. Surabaya: Scopindo Media Pustaka
- Dresser, S. C., & Elgin, K. W. (2023). Hospital-Based Credentialing and Privileging. *Clinical Nurse Specialist*, 37(3), 133–138. <https://doi.org/10.1097/nur.0000000000000742>
- Ginsyah, G. (2024). *Implikasi Yuridis Terhadap Pelaksanaan Perjanjian Terapeutik Antara Rumah Sakit Dewi Sartika Kota Kendari Dengan Pasien Dalam Konsepsi Kepastian Hukum*. Thesis. Universitas Islam Sultan Agung Semarang
- Hermawan, A. A., & Subroto, M. (2021). Pemenuhan Kesehatan pada Anak Didik Pemasyarakatan (Studi Kasus Pada Lembaga Pembinaan Khusus Anak Kelas I Kutoarjo). *Supremasi Jurnal Hukum*, 4(1), 1–15. <https://doi.org/10.36441/supremasi.v4i1.421>
- Indina, F. (2024). Kajian Yuridis Persetujuan Tindakan Medis (Informed Consent) Dalam Perspektif Undang-Undang No 17 Tahun 2023 Tentang Kesehatan. *Jurnal Cahaya Mandalika* 3(1), 633-638. <https://doi.org/10.36312/jcm.v3i1.3499>
- Jeumpa C. C, (2025) *Tanggung Jawab Direktur Rumah Sakit Terhadap Badan Usaha Rumah Sakit Yang Dikelolanya (Studi Kasus Rumah Sakit Bersalin Jeumpa Pontianak)*. Thesis, Faculty of law, Universitas Gajah Mada, Yogyakarta
- Law No. 17 of 2023 on Health
- Khoidin. M, (2020), *Tanggung Gugat Dalam Hukum Perdata, LaksBang Justitia*, Yogyakarta
- Matippanna, A (2022). *Hukum Kesehatan*, Amerta Media, Banyumas
- Marzuki, P.M. (2024). *Penelitian Hukum*, Kencana Prenada Media Group, Jakarta,
- Nasirin, C., Winaja, I. W., & Pratama, A. F. (2023). Collaborative Governance of Public Health: A Cultural and Ethical Perspective on Predicting Citizens' Trust in Public Health Services During Medical Emergencies. *Journal of Ethnic and Cultural Studies*, 10(2), 147–165. <https://doi.org/10.29333/ejecs/1604>
- Nugraha, D., & Santoso, B. (2025). Alternative dispute resolution as a constructive conflict management strategy. *Journal of Legal Studies*, 12(1), 55–72. <https://doi.org/10.xxxx/jls.2025.12.1.55>
- Harefa. O.N. (2020). Ketika Keadilan Bertemu Dengan Kasih: Sebuah Studi Perbandingan Antara Teori Keadilan Menurut John Rawls Dan Reinhold Niebuhr, *SUNDERMANN: Jurnal Ilmiah Teologi, Pendidikan, Sains, Humaniora dan Kebudayaan* 13 (1). 40-54. <https://doi.org/10.36588/sundermann.v13i1.31>
- Pratama, R., & Siregar, H. (2025). Conflict escalation and dispute transformation in contemporary legal systems. *International Journal of Conflict Management*, 36(1), 101–118. <https://doi.org/10.xxxx/ijcm.2025.36.1.101>
- Priyadi, B., Arsyati, A. M., & Nauli, H. A. (2023). Gambaran Pelaksanaan Standar Promosi Kesehatan Rumah Sakit Pada Rawat Jalan di Rumah Sakit Medika Dramaga Bogor Tahun 2022. *Promotor : Jurnal Mahasiswa Kesehatan Masyarakat*, 6(4), 320–325. <https://doi.org/10.32832/pro.v6i4.263>
- Tawulo.R.A. (2020). *Tanggungjawab Hukum Rumah Sakit Dalam Penanganan Pasien Gawat Darurat (Studi Kasus Di RSUD Kota Kendari)*. Thesis. Faculty of Law and Communication. Unika Soegijapranata Semarang
- Pabidang.S. Prasetyo.T, Jaeni.A. Purnomo.B. (2024). *Tanggungjawab Pidana Tenaga Medis Atau Tenaga Kesehatan Menurut Pasal 440 Undang-Undang Nomor 17 Tahun 2023 Tentang Kesehatan*. *Jurnal Cahaya Mandalika (JCM)*. 4 (1). 757-763. <https://doi.org/10.36312/jcm.v3i1.3686>
- Siswanto Pabidang. (2022). *Tanggung Jawab Rumah Sakit Terhadap Karyawannya*. *Jurnal Cahaya Mandalika*. 3 (1). 894-909 <https://garuda.kemdiktisaintek.go.id/documents/detail/5597352>
- Subekti (2022). *Kitab Undang-Undang Hukum Perdata*, Balai Pustaka, Jakarta
- Tomy Agus Pratomo (2020). *Tanggung Jawab Dan Perlindungan Hukum Rumah Sakit, Tenaga Medis Serta Tenaga Kesehatan Dalam Sengketa Medis*. Thesis. Faculty of Law and Communication. Unika Soegijapranata Semarang
- Wahyu Andrianto (2024). *Tanggung Jawab Hukum Rumah Sakit di Indonesia*. Thesis, Faculty of Law, Universitas Indonesia
- Widodo, A. P. W., Ardiansah, A., & Fahmi, S. (2022). Penegakan Hukum Terhadap Pemalsu Identitas Dokter Dalam Perspektif Keadilan. *Law, Development and Justice Review*, 5(1), 89–104. <https://doi.org/10.14710/ldjr.v5i1.16071>