

# Medical Negligence in Drug Administration: A Legal and Ethical Perspective of Medicine in Indonesia

Achmad Alex, Yeni Vitrianingsih, Fayola Issalillah, Mujito, Febrian Dirgantara

*Universitas Sunan Giri Surabaya, Indonesia*

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## ABSTRACT

Health is a fundamental right of every individual guaranteed by the constitution and various legal and regulations in Indonesia. In health services, the relationship between doctors and patients is based on a therapeutic agreement that creates reciprocal rights and obligations. This research examines the legal liability of doctors in cases of alleged medication errors, covering civil and criminal aspects, as well as mechanisms for resolving medical disputes. Using a normative legal approach, this research analyzes health regulations, principles of professional liability, and dispute resolution mechanisms through litigation and non-litigation channels. The results of the research show that incorrect medication administration can be considered medical negligence with serious legal implications. Dispute resolution through mediation is more recommended because of its voluntary, flexible, and solution-oriented nature. Strengthening health regulations and community education is necessary to ensure the protection of patient rights and justice for medical personnel.

## INTRODUCTION

Humans, as dynamic living beings, require physical, mental, and social balance to support their survival. The fulfillment of these needs is the basis for each individual to achieve a decent quality of life and carry out their roles and liabilities in community life. The existence of conditions that support the functioning of the body and soul is a major prerequisite for achieving this. Health is an essential condition for every human being that enables the optimal performance of activities. In the Indonesian legal system, health is defined as a state that encompasses a person's physical, mental, and social well-being, as stipulated in Law Number 17 of 2023 concerning Health. This definition emphasizes that health does not merely mean the absence of disease, but is also a prerequisite for living a productive life. The state explicitly recognizes that every individual has the right to live healthily, as stipulated in Article 28H paragraph (1) of the 1945 Constitution, which states that every person has the right to live prosperously in body and soul, to have a place to live, to enjoy a good and healthy environment, and to receive health services (Wijayanti, 2023).

These health services are provided by health facilities operated by medical personnel. In Article

1 paragraph (6) of Law Number 17 of 2023, medical personnel are defined as individuals who dedicate themselves to the field of health in a professional capacity, accompanied by knowledge and skills obtained through professional medical or dental education, and who have the authority to carry out various health efforts. Doctors, as part of the medical personnel, play an important role in providing health services aimed at fulfilling the rights of patients, including the right to treatment as one of the fundamental needs in order to ensure individual health (Saraswati, & Zulfa, 2023).

In the healthcare system, medical personnel play a very important role as the main implementers in efforts to maintain and improve community health. The existence of professional medical personnel is a fundamental element that ensures that every individual receives healthcare services in accordance with their needs and established standards. This role places medical personnel in a strategic position in ensuring the achievement of overall healthcare objectives. Doctors are medical personnel who have special competencies in treating patients. The position of doctors as healthcare providers places them in a professional relationship with patients who act as

\* Corresponding author, email address: [dr.mujito@gmail.com](mailto:dr.mujito@gmail.com)

service recipients. This relationship is reciprocal and based on the fulfillment of the rights and obligations of each party. In every interaction, doctors have an inherent liability to provide optimal healthcare services in accordance with professional standards. This liability is inseparable from the legal regulations governing the medical profession, which serve to ensure integrity and quality in medical practice (Anwar, 2018).

The practice of medicine is closely linked to ethical and legal obligations in the treatment of patients. The rights and obligations inherent in this profession are comprehensively regulated in national legislation, including Law No. 39 of 2009, which was later amended to Law No. 17 of 2023 on Health. These regulations are designed to ensure that every medical action performed by doctors is in line with applicable legal standards. With this legal framework in place, doctors are required to carry out their professional duties for liability, both towards patients and the wider community.

The establishment of legal regulations governing the medical profession reflects the state's concern for fundamental principles in health care. These principles include non-discrimination, active participation, protection of rights, and sustainability of healthcare services. These principles form the normative basis that governs how doctors must carry out their duties for liability. By adhering to these principles, the medical profession is expected to meet the needs of patients appropriately while maintaining community trust in the quality of medical services.

The interaction between doctors and patients is the main foundation for providing professional healthcare services. This relationship not only reflects communication between two parties, but also contains aspects of liability and obligations inherent in the medical profession as healthcare providers. Through this relationship, a legal framework is created that regulates the rights and obligations of each party to ensure the achievement of the expected treatment goals. The relationship between doctors and patients can be classified into two types, namely a relationship based on a contract known as a therapeutic transaction and a relationship that arises based on a legal statute. Both forms of relationship give rise to legal and ethical liabilities. Legally, the relationship between doctors and patients takes the form of an agreement whose main object is medical services or efforts to cure illness.

The implementation of treatment efforts by doctors towards patients creates a legal obligation known as *inspanning verbintenis*. This obligation

requires actions to be carried out carefully and diligently. When these efforts are successful, the results are referred to as achievements. If these efforts fail, however, this is considered a risk that must be accepted by both parties in accordance with the principle of liability inherent in the relationship.

The medical diagnosis process is a fundamental step in determining the appropriate type of treatment for patients. To achieve an accurate diagnosis, a series of systematic and scientific methods are required, beginning with the collection of detailed information about the patient's health condition. This initial step forms the basis for all subsequent medical decisions. Anamnesis, or medical interview, is a very important initial stage in the diagnosis process carried out by a doctor on a patient. This stage is designed to obtain comprehensive and accurate information about the patient's health condition. The information gathered through anamnesis becomes the basis for doctors to formulate appropriate treatment measures, both to address short-term medical needs and to plan long-term healing strategies. The success of the diagnosis depends heavily on the quality of the information obtained, making anamnesis a key element in healthcare practice.

The conduct of medical interviews by doctors is not merely a procedure, but also a reflection of the level of professionalism inherent in the medical profession. The interaction between doctors and patients during this process creates a basic framework that guides all subsequent stages of medical care. As a first step, the medical interview provides the basis for medical decision-making, including the administration of medication, which is an important part of the healing process. The medical interview therefore plays a central role in ensuring that every intervention made by the doctor is based on a thorough understanding of the patient's condition.

The administration of medication to patients, as a form of medical intervention, is carried out after a systematic medical interview process. This action demonstrates how medical interviews are a key element that connects initial information about patients with the decision to take treatment measures. The accuracy of prescriptions given to patients not only reflects the doctor's thoroughness in understanding the patient's condition but also emphasizes the importance of anamnesis as a basis for avoiding medical errors. The medical interview process is therefore not only a means of gathering information but also the first step in fulfilling the legal and ethical liabilities of the medical profession.

The administration of medication to patients with the primary goal of improving their quality of life and reducing potential risks. The administration of medication is an important part of the therapeutic process designed to effectively support patient recovery. Doctors usually prescribe medication as a final step after consulting with patients (Buamona, 2015).

Medical actions taken by a doctor must be based on the principles of caution and professional liability (Budiarsih, 2021). Every step taken, including prescribing medication, has significant implications for the patient's health. The medical decision-making process therefore requires careful analysis of clinical information and the patient's condition to ensure that the steps taken are appropriate for the specific medical needs. A doctor's decision to prescribe medication requires a deep understanding of the patient's condition. This understanding aims to prevent medication errors, which can include prescribing the wrong type of medication for the condition, incorrect dosage, or potential adverse side effects. Inaccuracies in this process can cause harm to the patient's health, making precision in prescribing medication an essential part of a doctor's liability.

Alleged errors in the prescription of medication by doctors to patients have become a frequent issue and have received widespread attention in Indonesia. These cases are reflected in various reports in the mass media, which describe patients' complaints about the health services they receive. Patients often feel aggrieved and claim medical negligence when they find that the prescribed medication does not suit their needs. This situation reinforces the perception that there are weaknesses in the performance of medical duties, resulting in patient dissatisfaction with the health services provided.

This issue highlights gaps in medical services that can affect patients' trust in medical personnel. Allegations of medical negligence arise not only from incorrect medication administration, but also from patient dissatisfaction with communication and explanations regarding medical procedures. When patients feel that the medical experience falls short of their expectations or standards, it can trigger accusations of negligence that can have serious consequences. The impact is felt not only by patients who claim to have suffered losses, but also by doctors who must face threats to their professional reputation and credibility. This makes the issue of alleged prescription errors an important issue that requires further research in relation to patient protection and the legal responsibility of medical personnel.

Quality healthcare is a fundamental right of every individual and serves as a benchmark for the success of a country's healthcare system. Patient dissatisfaction with the services received often triggers assessments of the competence of medical personnel and the effectiveness of the services provided. This situation opens the door to allegations of medical negligence, which become the focus of healthcare evaluations. Allegations of medical negligence by doctors are often associated with poor quality healthcare. The quality of healthcare refers to the extent to which the services provided are able to meet patient needs and produce the expected level of satisfaction (Samil, 2001). This issue not only causes harm to patients, but also affects the reputation of the medical profession, which can create a negative image of medical personnel in providing healthcare services. This situation highlights the urgency of further research on legal protection for patients who are victims of prescription errors by doctors and legal mechanisms for resolving such cases in accordance with the principles of health and legal.

This research aims to examine the protection provided to patients in cases of incorrect prescription of medication by doctors. The focus of the research is directed at understanding the extent to which patients' rights are protected in such situations and how legal mechanisms function to ensure justice for patients who have been harmed. The research also aims to analyze the resolution of these cases from a health legal perspective, highlighting relevant legal principles, such as professional liability, medical ethics, and patient protection. This narrative will reveal the relationship between medical actions, the implementation of legal obligations, and the protection of patient rights as an integral part of a responsible healthcare system.

## **RESEARCH METHOD**

This research was designed to explore in depth the legal protection provided to patients who are victims of prescription errors by doctors and the legal mechanisms for resolving such cases based on the principles of health and legal. This research emphasizes the importance of analyzing the legal aspects that govern the liabilities of physicians in medical practice, particularly in terms of fulfilling patients' rights and preventing medical errors. This research aims to contribute theoretically and practically to understanding the dynamics of the legal relationship between medical personnel and patients.

The research method used in this research is the normative juridical method. This method focuses on the assessment of relevant legal materials, both in the form of legislation and other scientific documents. This research relies on primary legal materials, including laws and regulations governing the medical profession, legal liability for medical negligence, and dispute resolution mechanisms in the medical field. This research also uses secondary legal materials, including draft legal regulations, legal theories, and academic literature relevant to the issues under review.

The approach used in this research is a legislative approach that aims to systematically examine regulations related to medical personnel and cases of medical negligence. Legal materials were collected by inventorying legislation related to medical personnel and their legal responsibilities in medical practice. The analysis of legal materials used descriptive techniques by detailing the existing legal conditions and their relevance to patient protection and dispute resolution. This approach enabled the research to provide a comprehensive understanding of the legal position and resolution measures that can be applied in cases of prescription errors by doctors.

## RESULT AND DISCUSSION

### **Patient Protection in Cases of Incorrect Prescription of Medication by Doctors from a Health Legal Perspective**

Prescribing medication by doctors is part of their professional duty designed to achieve patient recovery through medical intervention appropriate to the clinical condition experienced. In the general criminal law, negligence or carelessness has a meaning closely related to the mental state of the perpetrator when committing an act that has legal consequences. Negligence is defined as a form of error that includes aspects of carelessness, which in principle can occur consciously or unconsciously. In cases of conscious negligence, the perpetrator is considered to have imagined or anticipated the possibility of consequences, but those consequences still occurred even though the perpetrator had tried to prevent them. Conversely, in cases of unconscious negligence, the perpetrator did not anticipate the consequences, but those consequences occurred due to a lack of vigilance that the perpetrator should have exercised.

This concept of negligence has significant relevance in evaluating the legal liability of a doctor when a medication error occurs. Jan Remmelink (2003) explains that culpa or negligence can arise from a lack of knowledge, carelessness in thinking, or actions taken without a clear direction. This view

shows that negligence is not merely limited to technical negligence, but also reflects a failure to meet the standards of care expected in certain situations. In medical practice, these standards are manifested through a deep understanding of the patient's condition, careful decision-making, and the application of professional skills in accordance with applicable codes of ethics and regulations.

Hanafiah and Amir (1999) emphasize that negligence can be measured by the extent to which the perpetrator, including doctors, has taken into account the risks that may arise from their actions and the efforts made to prevent them. This perspective confirms the importance of caution as a key element in determining the existence or absence of legal liability for a medical action that results in harm to the patient. This analysis provides a solid legal framework for assessing physician error in prescribing the wrong medication, with reference to the principles of criminal law and medical professionalism as formulated in legal literature.

Administering medication to patients is a medical procedure that requires in-depth knowledge and high-level skills from a doctor. During the consultation process, doctors must be able to carefully analyze the patient's illness as a preliminary step before determining the next medical course of action. An inaccurate analysis can lead to medical negligence, which can have fatal consequences for the patient.

Errors in administering medication, as part of medical treatment, are closely related to the quality of the doctor's amnesia. After conducting an examination, doctors are required to make an accurate diagnosis. A correct diagnosis forms the basis for an effective treatment plan, including the appropriate administration of medication to patients. The incorrect administration of medication therefore not only reflects potential negligence on the part of the doctor, but can also be considered a violation of the standards of knowledge, skill, and professionalism that must be met in medical practice.

As a form of professional liability, a doctor must ensure that every medical action taken, from amnesia to medication administration, is based on accurate scientific knowledge and established procedures. According to Dewi et al. (2022), medical negligence can occur when doctors do not perform their duties in accordance with applicable professional standards, both in decision-making and in the implementation of therapy. Actions that do not meet these standards, such as administering the wrong medication, have the potential to harm patients and can be legally challenged as a violation of a doctor's legal obligations.



Negligence in medical legal terms refers to actions or omissions that disregard reasonable standards of conduct, thereby causing harm to another party. Ilahi (2018) defines negligence as indifference, carelessness, or a lack of attention to the interests of others as required in social life. This concept refers to the legal obligation of every individual to act with due care in accordance with the norms that apply in the community.

Negligence in medical legal terms refers to actions or omissions that disregard reasonable standards of conduct, thereby causing harm to another party. Ilahi (2018) defines negligence as indifference, carelessness, or a lack of attention to the interests of others as expected in the community. This concept refers to the legal obligation of every individual to act with due care in accordance with the norms that apply in the community. In the realm of health services, medical negligence is an important issue that is strictly regulated through health-related laws. The implementation of healthcare services is regulated to ensure that every patient receives their rights as recipients of proper services. This legal framework emphasizes that patients have the right to receive healthcare services that meet professional standards and medical ethics. The negligence that occurs in healthcare services, whether in the form of misdiagnosis, medication administration, or other procedures, can have legal implications if it violates professional obligations.

The existence of a legal framework in the field of health provides a strong legal basis for protecting patients from potential violations of their rights. Patients are entitled to services that reflect the liability and professional expertise of healthcare providers. In the event of negligence, the doctor or healthcare worker concerned can be held accountable in accordance with applicable legal provisions, which ultimately provides legal protection to the community as users of healthcare services.

Article 66 Paragraph (1) of Law Number 20 of 2009 concerning Medical Practice states that anyone who feels aggrieved by the actions of a doctor or dentist in medical practice may submit a written complaint to the Chair of the Indonesian Medical Disciplinary Council. This provision provides a clear legal mechanism for the community to submit complaints about medical actions that are considered not in accordance with professional standards. The Law Number 36 of 2009 on Health further stipulates that every person has the right to claim compensation if they suffer loss due to the fault or negligence of health personnel in providing services.

The obligation of doctors to provide detailed information regarding prescribed medications, including the duration of use and side effects, is part of efforts to prevent medical risks that could harm patients (Nurfauziah & Fatimah, 2022). This explanation not only serves to protect patients, but also protects medical personnel from potential legal claims of negligence. Inadequate or incorrect information regarding medication can pose significant risks, including excessive pain, permanent disability, or even death of the patient.

Medical risks arising from the administration of incorrect medication demonstrate the need for doctors to carry out their professional duties carefully and responsibly (Ameliyani, 2017). As stated by Darmawan (2021), negligence in administering medication can be considered a violation of professional discipline with serious legal implications. Doctors are therefore required to ensure that every medical action, including the administration of medication, complies with scientific standards, professional ethics, and applicable legal regulations.

Regulations governing patient protection arise from the relationship between medical personnel, in this case doctors, and patients, which is based on a therapeutic agreement. This agreement creates reciprocal rights and obligations for both parties. In cases where a doctor administers the wrong medication to a patient, there are legal elements that cover civil and criminal aspects.

Civil aspects arise when there is a breach of the therapeutic agreement, which can be categorized as default or violation of legal provisions. Criminal aspects arise when the doctor's negligence is proven to have caused serious harm to the patient, such as disability or even death. In this situation, the action can be considered a criminal act of negligence that violates the legal and medical professional norms.

In cases where a doctor administers the wrong medication to a patient, civil liability attaches to the doctor for his or her actions. This liability covers ethical and legal dimensions, especially when there is a breach of contract or unlawful act. Based on Article 1426 of the Civil Code, compensation awarded in cases of breach of contract includes compensation in the form of restoration of the original condition (*in natura*) and a prohibition on repeating similar acts.

The civil liability of doctors arising from illegal acts is regulated in Article 1365 of the Civil Code. This article stipulates that this liability arises if the act is illegal, the perpetrator is at fault, and the act causes harm to another party. These elements must be

fulfilled in order for patients to seek legal compensation. As explained by Mende et al. (2023), illegal actions by doctors that cause material and immaterial losses to patients are grounds for claiming civil liability in accordance with applicable regulations.

In criminal law, doctors' liability for negligence in prescribing medication that causes serious injury, disability, or death to patients is regulated in the Criminal Code (KUHP), specifically Articles 359, 360 paragraphs (1) and (2), and 361. Article 360 of the KUHP, for example, states that a person who, due to negligence, causes another person to suffer serious injury may be punished with imprisonment for a maximum of one year. The negligence causes someone to suffer injuries that prevent them from performing their job or duties for a period of time, the perpetrator may be punished with a maximum imprisonment of nine months, a maximum confinement of six months, or a maximum fine of four thousand five hundred rupiah.

The provisions in these articles provide a clear legal basis for medical malpractice cases, including errors made by doctors in prescribing medication. When applied to relevant cases, these articles enable legal action to be taken against doctors who are proven to be negligent, taking into account the level of error and the impact on the patient (Hidayat, 2020). This regulation aims to protect patients' rights while ensuring that medical personnel are accountable for their professional actions in accordance with applicable legal standards.

Patient protection is one aspect that has been explicitly regulated in health and legal regulations. Regulations related to health and legal matters are not compiled in a single codified book such as the Civil Code or Criminal Code, but are scattered across various legal regulations in the health sector. Agustina (2020) explains that the main purpose of these legal regulations is to protect individuals and the community, while also supporting the smooth implementation of health efforts so that national health objectives can be achieved effectively.

### **Resolution of Cases of Alleged Incorrect Medication Administration by Doctors to Patients from a Health Legal Perspective**

The resolution of cases involving alleged incorrect medication administration by doctors is a complex issue that requires in-depth study from a health legal perspective. The liability of doctors is a very important matter. A doctor has an obligation to provide care in accordance with applicable medical standards. If an error occurs in the administration of

medication, this can be considered malpractice, especially if it is proven that the doctor did not meet these standards. This liability is regulated in the Health Law and various other related regulations, which provide a legal framework for medical practice.

Patient protection is also a crucial aspect. Patients are entitled to legal protection if they suffer losses due to medication errors (Sekeon, 2023). In this case, there are various forms of protection that patients can access, including filing complaints with the authorities. Patients have the right to file legal claims, both criminal and civil, against the doctor concerned if they feel they have been harmed (Yusuf, 2019).

Alleged medication errors by doctors to patients can be resolved through two mechanisms, namely non-litigation and litigation. Non-litigation, as stipulated in Article 310 of Law Number 17 of 2023 concerning Health, provides space for dispute resolution through alternative means outside of court. This provision states that disputes arising from alleged medical errors that cause harm to patients must first be resolved through alternative mechanisms such as negotiation, conciliation, or mediation. These alternative dispute resolution methods are known as Alternative Dispute Resolution (ADR).

Mediation is the preferred option in medical disputes because it allows medical personnel and patients to express their concerns and choose a mutually agreed upon resolution. Saadah Kurniawati and Daeng (2023) mention several advantages of mediation in modern medical disputes, such as its voluntary nature, procedural flexibility, focus on the interests of the parties, future orientation, and full control by the disputing parties. The mediation process enables the achievement of a quick, effective, and efficient resolution of disputes without having to go through court mechanisms, which tend to be formal and time-consuming.

The litigation route, on the other hand, involves resolving disputes through the courts. Patients can file a police report for alleged criminal acts in medical malpractice cases, which are regulated both in the Criminal Code and outside of it. The litigation process includes stages ranging from reporting the crime, clarification, investigation, examination, prosecution by the public prosecutor, to trial in court. In the courtroom, there are stages of reading the indictment, exceptions, examination of witnesses and experts, reading of charges, defense, and the judge's verdict. Sinaga (2021) emphasizes that the settlement of medical disputes through litigation is

not limited to criminal courts, but can also be done through civil courts or administrative courts, depending on the nature of the dispute and the rights violated.

Mediation has long been used in various cases such as business, environmental, and consumer disputes. The application of mediation in medical disputes, however, has only recently been accommodated by Article 29 of Law No. 36 of 2009 concerning Health, which requires mediation efforts first before proceeding to other legal channels. Litigation, although it provides legally binding decisions, is often considered more time-consuming and costly than alternative dispute resolution outside of court.

There is, however, legal uncertainty that often surrounds regulations regarding the limits of malpractice. This uncertainty can complicate the resolution of cases, both for patients seeking justice and for doctors who want to maintain their professional reputation. There is, therefore, an urgent need for improvements in health legal regulations to provide greater certainty and protection for all parties involved.

Sanctions and consequences for doctors proven to have made mistakes in prescribing medication are also an important part of this research. Doctors proven to be at fault may be subject to administrative, criminal, or civil sanctions, which aim to protect patients and maintain the integrity of the medical profession. Nurses or other medical personnel involved in the error may also be subject to sanctions in accordance with applicable regulations.

By understanding these various aspects, cases involving alleged medication errors by doctors can be resolved more effectively and fairly, both for patients who have been harmed and for medical personnel who are trying to do their jobs properly.

## CONCLUSION

The conclusion of this research confirms that health is a fundamental right of every individual guaranteed by Indonesian legal regulations. In medical practice, doctors have inherent ethical and legal liability to ensure that every medical action is carried out in accordance with professional standards and applicable laws. The relationship between doctors and patients, whether through therapeutic agreements or legal regulations, creates mutually binding rights and obligations. Allegations of medication errors by doctors demonstrate the importance of monitoring the implementation of doctors' professional obligations to avoid harm to

patients. A dispute resolution mechanism through litigation and non-litigation channels has also been established to ensure justice for all parties involved.

The results of this research also reveal gaps in the implementation of regulations related to medical malpractice, which often lead to legal uncertainty. More stringent regulations are needed to ensure that patients receive maximum protection without neglecting the rights and reputation of medical personnel. The application of mediation mechanisms as the main channel for resolving medical disputes is considered more efficient and can encourage solutions that are oriented towards mutual interests.

As a suggestion, it is necessary to strengthen health regulations, including clearer regulations regarding the limits of malpractice and medical dispute resolution procedures. Community education regarding patient rights and the obligations of medical personnel needs to be improved in order to create a better understanding of shared liability in health services. Strengthening mediation mechanisms as an alternative to out-of-court dispute resolution should be supported by training professional mediators in the field of health. This will ensure that each case is resolved fairly and efficiently, while maintaining good relations between doctors and patients for the sustainability of a quality healthcare system.

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