

# **VIOLATION OF THE MEDICAL CODE OF ETHICS IN DOCTOR MALPRACTICE IN THE CASE OF NASAL FILLER INJECTION ON A PATIENT (Study of Supreme Court Decision Number 233 K/Pid.Sus/2021)**

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## **Abstract**

The medical profession plays a vital role in safeguarding human life and health; however, not all medical practices comply with professional standards and ethical codes, leading to ethical violations and medical malpractice. Malpractice may occur in the form of misdiagnosis, non-compliance with standard operating procedures, negligence, or the absence of valid informed consent, resulting in physical and psychological harm to patients. Although regulatory frameworks such as Law Number 29 of 2004 on Medical Practice and professional oversight bodies, including the Indonesian Medical Discipline Honorary Council (MKDKI) and the Medical Ethics Honorary Council (MKEK), are in place, enforcement and patient protection remain insufficient. Health is a fundamental right of every citizen, as reaffirmed in Law Number 17 of 2023 on Health, which mandates ethical and competent medical services. This study aims to identify forms of medical ethical violations committed by physicians and to analyze their legal accountability using a normative juridical approach, with reference to Supreme Court Decision Number 233 K/Pid.Sus/2021. The study finds that serious ethical breaches may constitute medical malpractice and entail legal responsibility.

**Keywords:** *Medical Code of Ethics; Malpractice; Legal Responsibility*

## **INTRODUCTION**

Health is a fundamental right of every citizen to live a dignified and productive life. Accordingly, the relationship between patients and healthcare providers must be conducted in strict compliance with established service standards, particularly Standard Operating Procedures (SOPs), to prevent medical malpractice. This obligation applies to all healthcare providers, including physicians, nurses, paramedics, and hospital management. Hospitals function as comprehensive healthcare institutions providing inpatient, outpatient, and emergency services. Their management aims to ensure that healthcare delivery meets patients' needs and expectations in terms of service quality, types of services, and procedural standards. Healthcare services are also delivered through various facilities using promotive, preventive, curative, rehabilitative, and palliative approaches administered by the government and the community. Under Law Number 17 of 2023 concerning Health, medical personnel are defined as individuals with professional competence acquired through formal medical or dental education and legally authorized to provide healthcare services. Physicians are therefore required to uphold ethical standards as regulated in the medical code of ethics. The World Medical Association (WMA) emphasizes that medical ethics extend beyond the physician-patient relationship to include broader social and professional responsibilities. In Indonesia, these principles are codified in the Indonesian Medical Code of Ethics (KODEKI). Healthcare services operate within a highly complex and tightly coupled system, particularly in high-risk environments such as emergency departments, operating rooms, and intensive care units. Increased system complexity elevates the risk of medical errors, thereby necessitating heightened vigilance, accuracy, and professional diligence in medical practice. Physicians bear legal and ethical responsibility for every medical action performed in the course of practice. When medical errors or malpractice are proven, legal sanctions may be imposed to ensure accountability and provide compensation to affected patients. Articles 359–361 of the Indonesian Criminal Code establish criminal liability for medical negligence resulting in injury, serious injury, or death. Patients' rights to seek legal redress are also protected under Law Number 8 of 1999 concerning Consumer Protection. A notable example is the case of Dr. Elisabeth Susana (Supreme Court Decision No. 233 K/Pid.Sus/2021), who performed aesthetic medical procedures without adequate competence, resulting in

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permanent blindness of a patient. Although initially acquitted, the Supreme Court ultimately found the physician guilty and imposed a custodial sentence. This case underscores the critical importance of adherence to ethical standards and SOPs in safeguarding patient safety. Based on this context, the study addresses two principal legal issues: (1) the forms of medical code of ethics violations committed by physicians against patients, and (2) the legal accountability of physicians for such violations, as analyzed through Supreme Court Decision Number 233 K/Pid.Sus/2021.

## **LITERATURE REVIEW**

### **1. General Overview of Physicians**

Under Law of the Republic of Indonesia Number 29 of 2004 on Medical Practice, Article 1 paragraph (2), physicians and dentists are defined as medical doctors, specialist physicians, dentists, and specialist dentists who have completed medical or dental education, either domestically or abroad, and whose qualifications are officially recognized by the Government of Indonesia. The medical profession constitutes a professional occupation grounded in scientific knowledge and competencies acquired through structured and tiered education, and is governed by a code of ethics oriented toward public service.

### **2. General Overview of the Medical Code of Ethics**

The Indonesian Medical Code of Ethics (Kode Etik Kedokteran Indonesia—KODEKI) is a set of normative guidelines that regulate physicians' conduct in medical practice and maintain trust in the physician–patient relationship. Medical ethics prioritizes patient safety through the application of the core ethical principles of beneficence, non-maleficence, autonomy, and justice. Ethical enforcement is carried out by the Honorary Council of Medical Ethics (Majelis Kehormatan Etika Kedokteran—MKEK), while violations of medical discipline are adjudicated by the Indonesian Medical Discipline Honorary Council (Majelis Kehormatan Disiplin Kedokteran Indonesia—MKDKI). Professional standards serve as benchmarks for evaluating medical conduct, particularly in cases where medical actions result in patient injury, disability, or death.

### **Fundamental Principles of the Medical Code of Ethics**

The principle of beneficence requires physicians to act in the best interests of patients by promoting well-being, preventing harm, and protecting vulnerable individuals. Non-maleficence, expressed through the maxim *primum non nocere* (“do no harm”), obliges physicians to avoid actions that may endanger or worsen a patient's condition. The principle of autonomy emphasizes respect for patients' rights to self-determination, including truthful disclosure of information, protection of confidentiality, and the obligation to obtain informed consent prior to medical intervention.

### **3. General Overview of Medical Malpractice**

Medical malpractice refers to improper, unlawful, or unethical medical practice that deviates from statutory regulations, professional standards, or ethical codes, resulting in harm to patients. It reflects the failure of healthcare professionals to provide services with the level of competence, skill, and diligence reasonably expected of an average practitioner. Medical actions may be either active, such as performing procedures, or passive, such as decisions to withhold medical intervention.

### **Elements of Medical Malpractice**

Medical malpractice is established when several elements are present: negligence arising from a lack of due care or professional competence; conduct performed by an authorized healthcare professional; non-compliance with professional standards or standard operating procedures; and a causal relationship between the negligent act and the harm suffered by the patient, including injury, disability, or death. These elements give rise to legal liability for the physician.

### **Types of Medical Malpractice**

Medical malpractice may take the form of criminal malpractice as regulated under Law Number 17 of 2023 on Health. Criminal malpractice includes intentional misconduct, recklessness, and negligence. Examples include medical actions not performed *lege artis*, failure to obtain informed consent, breach of medical confidentiality, or negligent acts resulting in serious injury or death.

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## **4. Medical Records**

Medical records are documents containing notes and information regarding patient identity, examinations, treatments, medical actions, and other healthcare services provided. Medical records serve administrative, clinical, legal, financial, educational, and research purposes. Physicians are legally obligated to create, complete, and maintain medical records accurately, chronologically, and confidentially. While the physical medical record belongs to the healthcare facility, the information contained therein constitutes the patient's right.

## **5. General Overview of Patient**

A patient is any individual who consults a physician to obtain healthcare services, either directly or indirectly. Pursuant to Law Number 17 of 2023 on Health, patients are entitled to receive information regarding their health condition, obtain healthcare services in accordance with professional standards, give or refuse consent to medical treatment, and access information contained in their medical records.

## **METHOD**

### **1. Nature and Objectives of the Research**

The nature of research refers to the inherent characteristics of the research process, while the research objectives indicate the outcomes to be achieved through the study. This research adopts a **descriptive legal approach**, aiming to describe actual conditions and systematically analyze events and legal issues related to violations of the medical code of ethics in medical malpractice cases. The study examines relevant statutory provisions and theoretical frameworks to provide a comprehensive descriptive analysis of the issues under investigation.

### **2. Type of Research**

This study employs a **normative juridical research method**, which focuses on the analysis of legal norms, doctrines, theories, and statutory regulations. The research specifically examines legal rules governing violations of the medical code of ethics in medical malpractice cases, emphasizing the interpretation and application of existing laws.

### **3. Data Sources and Legal Materials**

The research utilizes **primary, secondary, and tertiary legal materials**. Primary legal materials include Law of the Republic of Indonesia Number 29 of 2004 concerning Medical Practice and Law Number 17 of 2023 concerning Health. Secondary legal materials consist of books, scholarly journals, and academic writings related to medical malpractice and violations of medical ethics. Tertiary legal materials, such as the Indonesian Dictionary (Kamus Besar Bahasa Indonesia), are used as supplementary references to clarify legal terminology.

### **4. Data Collection Techniques**

Data collection is conducted through **library research**, by systematically reviewing and compiling primary legal materials (statutory regulations), secondary legal materials (books and academic journals), and relevant tertiary sources related to criminal acts involving violations of the medical code of ethics in malpractice cases. The collected data are subsequently edited and verified to ensure completeness, clarity, relevance, and consistency, thereby enhancing data accuracy and research quality.

### **5. Data and Legal Analysis**

The data analysis method employed is **qualitative analysis**, which emphasizes descriptive interpretation rather than numerical measurement. The analysis aims to present findings in a coherent and systematic manner, focusing on the quality and relevance of legal materials. Conclusions are drawn using a **deductive reasoning approach**, whereby general legal principles and norms are applied to specific normative legal issues concerning violations of the medical code of ethics in medical malpractice cases.

## **RESULTS AND DISCUSSION**

### **1. Results**

The physician's conduct in this case satisfies the elements of both a violation of the medical code of ethics and a breach of health law. This is evidenced by the absence of valid informed consent, as the patient did not receive complete, honest, and adequate information regarding the medical procedure performed, including the serious risk

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of blindness. Consequently, the patient's consent was legally defective and could not serve as a lawful justification for the medical intervention, as stipulated under the Health Law and the Medical Practice Law. Furthermore, the physician failed to provide medical care in accordance with professional standards and standard operating procedures, and neglected the principles of prudence and patient safety that constitute the core of medical ethics. Such negligence resulted in a severe outcome in the form of permanent blindness, which bears a direct causal relationship to the medical procedure performed. Accordingly, the physician's conduct may be classified as medical malpractice arising from gross negligence (*culpa lata*). The essential elements of malpractice—namely, the existence of a legal duty owed by the medical professional, a breach of that duty, the occurrence of harm in the form of serious injury to the patient, and a causal link between the act and the harm—are clearly established.

In terms of legal accountability, the physician in this case may be held responsible not only ethically through the mechanisms of the Honorary Council of Medical Ethics (MKEK) and the Indonesian Medical Discipline Honorary Council (MKDKI), but also administratively through disciplinary sanctions up to the revocation of the medical practice license. In addition, the physician may incur civil liability for the physical, psychological, and economic losses suffered by the patient, as well as criminal liability, given that the negligence resulted in serious injury as regulated by applicable laws. Supreme Court Decision Number 233 K/Pid.Sus/2021 affirms that high-risk medical procedures performed without adequate competence and due care cannot be regarded merely as inherent medical risks, but instead constitute negligence giving rise to legal responsibility. Accordingly, this decision represents an important precedent in the enforcement of medical malpractice law in Indonesia, as it clarifies the boundary between acceptable medical risk and medical negligence, while reinforcing the principles of accountability and professionalism in medical practice in accordance with professional standards, legal norms, and medical ethics.

## **D. Discussion**

### **1. Forms of Medical Ethical Violations Committed by Physicians Against Patients**

#### **a. Defective Informed Consent**

In this case, the physician failed to obtain valid informed consent as required by Law No. 17 of 2023 on Health and Law No. 29 of 2004 on Medical Practice. Although patient consent was formally obtained, it did not meet the substantive requirements of informed consent because the patient was not adequately informed of serious risks associated with the nasal filler procedure, particularly the risk of permanent blindness. Consequently, the consent was legally defective and could not serve as a lawful justification for the medical action. Informed consent constitutes a fundamental legal and ethical prerequisite for medical intervention. It must be based on comprehensive disclosure, voluntariness, and the patient's capacity to understand the information provided. The failure to disclose material risks violates patient autonomy and exposes the physician to legal liability.

#### **b. Non-Compliance with Professional Standards and SOPs**

The physician also failed to comply with professional standards and standard operating procedures (SOPs). High-risk aesthetic medical procedures, such as nasal filler injections, require specific competence, strict adherence to safety protocols, and heightened caution. The omission of proper anamnesis, risk explanation, and medical documentation further demonstrates deviation from accepted medical standards. Such conduct violates the Indonesian Medical Code of Ethics (KODEKI), which prioritizes patient safety through the principles of beneficence, non-maleficence, autonomy, and justice.

#### **c. Medical Malpractice Due to Negligence**

Medical malpractice arises from a failure to provide professional services with the level of care reasonably expected of an average practitioner. In this case, the physician's actions constituted gross negligence (*culpa lata*), as all elements of malpractice were fulfilled: a legal duty owed by the physician, breach of that duty, serious harm in the form of permanent blindness, and a direct causal relationship between the act and the injury. The conduct therefore cannot be classified as an inherent medical risk but as negligent medical practice.

### **2. Legal Accountability of Medical Personnel**

(Analysis of Supreme Court Decision No. 233 K/Pid.Sus/2021)

A divergence in legal interpretation emerged between the Makassar District Court and the Supreme Court. The District Court acquitted the defendant on the grounds of insufficient proof, restoring her legal status and dignity. However, upon cassation, the Supreme Court overturned the decision and found the physician guilty of negligence resulting in serious injury.



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The Supreme Court emphasized that aesthetic filler injections constitute high-risk medical procedures requiring certified competence, adherence to SOPs, and heightened vigilance. The Court held that the physician was aware of the risk of blindness yet proceeded without adequate safeguards or qualifications. As such, the act fell outside lawful medical practice and satisfied the elements of criminal negligence under the Medical Practice Law.

### **3. Judicial Considerations**

The Supreme Court's reasoning was grounded in factual findings, expert testimony, and medical evidence demonstrating a direct causal link between the filler injection and the patient's permanent blindness. Expert opinions confirmed that blindness was not an unavoidable medical risk but resulted from technical error and negligence. Accordingly, the Court classified the conduct as gross negligence and imposed criminal liability.

### **4. Ethical and Professional Accountability**

Beyond criminal liability, the physician may also be held ethically and administratively accountable through professional bodies such as the Medical Ethics Honorary Council (MKEK) and the Indonesian Medical Discipline Honorary Council (MKDKI). Indonesian law prioritizes mediation and non-litigation mechanisms in resolving medical disputes; however, serious ethical and disciplinary violations may result in sanctions ranging from warnings to revocation of practice licenses.

## **CONCLUSION**

Based on the discussion of violations of the medical code of ethics and the legal accountability of medical personnel in cases of nasal filler procedures resulting in blindness, several recommendations are proposed. First, physicians should consistently prioritize the principle of prudence and strictly comply with professional standards and applicable standard operating procedures (SOPs). Prior to performing any medical intervention, physicians are obligated to provide patients with clear, honest, and comprehensible explanations regarding the procedure, its benefits, and all potential risks, including serious risks such as permanent blindness. This is essential to ensure that patient consent constitutes valid informed consent and to prevent future legal disputes. Second, physicians performing aesthetic medical procedures, including filler injections, must possess appropriate competence, training, and legal authorization. Conducting medical procedures beyond one's professional expertise exposes patients to significant harm and constitutes violations of both medical ethics and health law. Therefore, aesthetic medical practices should be limited to medical professionals who have adequate qualifications and certified competencies. Third, patients are encouraged to be more proactive and critical in understanding medical procedures they intend to undergo. Patients should actively seek detailed information regarding procedures, risks, and possible complications, and ensure that consent is granted only after receiving complete information and without any form of coercion. Fourth, medical professional institutions should strengthen supervision and disciplinary enforcement, particularly with respect to high-risk aesthetic medical procedures. Enhanced education and socialization regarding informed consent, adherence to SOPs, and the legal consequences of ethical violations or negligence are essential for all medical practitioners. Finally, law enforcement authorities and judges are expected to possess a comprehensive understanding of medical practice and health law to ensure that judicial decisions are fair, consistent, and provide legal certainty. The Supreme Court's decision in this case serves as an important precedent, affirming that medical negligence resulting in serious harm cannot be justified as a mere medical risk, but must entail legal accountability.

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