

Legal Responsibility of Nurses for Alleged Nursing Malpractice in Hospitals

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Abstract

Nursing services are an essential part of the hospital healthcare system, aiming to provide professional, safe, and standardized nursing care. In practice, nurses are obligated to carry out their duties based on professional standards, service standards, standard operating procedures (SOPs), and the nursing code of ethics. However, errors or omissions may occur, leading to allegations of nursing malpractice and potentially harming patients. This study aims to analyze the legal responsibilities of nurses for allegations of nursing malpractice in hospitals and the forms of accountability that can be imposed based on applicable legal provisions. The research method used is normative legal research with a statutory and conceptual approach through a review of various relevant laws and regulations, literature, and scientific journals. The results show that nurses can be held legally accountable if proven to have committed actions or omissions that deviate from professional standards and result in harm to patients. This form of legal responsibility includes civil, criminal, administrative, and ethical and professional disciplinary responsibilities. In addition, hospitals, as healthcare institutions, can also be held accountable for the actions of healthcare workers working within their scope of authority. Therefore, it is necessary to improve the competence of nursing staff, ensure compliance with service standards, and provide effective supervision to prevent allegations of nursing malpractice and ensure legal protection for patients and health workers.

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1. INTRODUCTION

Healthcare is a basic human need that plays a crucial role in achieving optimal public health. In the modern healthcare system, hospitals serve as institutions that provide comprehensive healthcare services, encompassing promotive, preventive, curative, and rehabilitative care. The success of healthcare services in hospitals is not solely determined by medical personnel, but is also greatly influenced by the role of nursing staff, the healthcare professionals with the most intensive patient contact. Nurses provide continuous nursing care throughout the patient's treatment process, from assessment and nursing diagnosis to action planning, implementation, and evaluation of care outcomes.

The nursing profession holds a highly strategic position in the provision of healthcare services because nurses interact most frequently with patients and their families compared to other healthcare professionals. In carrying out their duties, nurses are required to possess professional competence, technical skills, strong communication skills, and a thorough understanding of the ethical and legal aspects of nursing practice. These responsibilities are becoming increasingly complex as advances in science and technology in the healthcare sector demand high-quality, effective, efficient, and patient-safety-oriented healthcare services.

Improving the quality of healthcare services in hospitals has become a demand of a society increasingly aware of its rights as consumers of healthcare services. Patients are no longer merely passive recipients of care, but are also demanding assurances of safety, comfort, and legal certainty regarding the services they receive. This situation places every action of healthcare workers, including nurses, under increasingly strict scrutiny by patients, their families, the community, and authorized institutions. If errors or negligence in care result in harm to patients, legal action against healthcare workers and hospitals as providers of healthcare services is likely to arise.

In healthcare practice, a legal relationship between nurses and patients is established upon the patient's receipt of nursing care. This relationship creates rights and obligations for each party. Patients have the right to receive safe, high-quality healthcare services that meet professional standards, while nurses are obligated to provide nursing services based on competence, professional standards, standard operating procedures, and a code of ethics. Conversely, nurses also have the right to legal protection as long as they carry out their professional duties in accordance with applicable regulations. Therefore, maintaining a balance between protecting patient rights and legal protection for healthcare workers is crucial in the provision of healthcare services.

As public legal awareness increases, cases involving alleged malpractice by healthcare workers are increasingly drawing public attention. The term malpractice is generally used to describe professional actions that violate professional standards, resulting in harm to others. In the context of nursing services, nursing malpractice can occur when a nurse engages in actions that violate professional standards, exceed their authority, or commit negligence that results in injury, disability, or even death to a patient. However, not all incidents that result in harm to a patient can automatically be categorized as malpractice. Determining malpractice requires proof of error, negligence, violation of professional standards, a causal relationship, and the harm experienced by the patient.

The phenomenon of alleged nursing malpractice is a crucial issue because it concerns the protection of patient rights and legal certainty for nursing staff. In many cases, the public often considers any failure of a healthcare procedure to be malpractice, without understanding that healthcare services carry medical risks that can occur even if the procedure is carried out in accordance with professional standards. On the other hand, there are also cases where healthcare workers' actions are unprofessional or do not follow procedures, resulting in preventable harm. Therefore, a comprehensive understanding of the boundaries between medical risk, negligence, and malpractice is necessary to avoid errors in assessment and legal enforcement.

Normatively, nursing practice in Indonesia is regulated by various laws and regulations aimed at providing legal certainty for both nursing staff and the public as recipients of healthcare services. These regulations cover the authority, rights, obligations, standards of practice, and legal accountability mechanisms for nurses. The existence of these regulations demonstrates the government's strong commitment to the importance of professionalism in nursing practice as part of efforts to improve the quality of healthcare services. Furthermore, these legal regulations serve as a means of protecting patients from potential harm resulting from errors or negligence by healthcare professionals.

The legal liability of nurses in cases of alleged malpractice is not limited to civil matters but can also encompass criminal, administrative, and professional disciplinary matters. In civil matters, nurses can be held accountable if they are proven to have committed an unlawful act or breach of contract that results in harm to a patient. In criminal matters, nurses can be subject to sanctions if their actions meet the elements of a criminal offense, such as negligence resulting in serious injury or death of a patient. Meanwhile, in

administrative and professional disciplinary matters, nurses can be subject to sanctions in the form of warnings, guidance, practice restrictions, and even revocation of their practice licenses if they are proven to have violated applicable regulations. These various forms of accountability demonstrate that nursing practice has broad legal consequences and requires careful implementation.

In addition to the individual responsibilities of nursing staff, hospitals, as healthcare institutions, also have legal responsibilities for the services they provide to patients. From a health law perspective, hospitals are not only responsible for providing adequate facilities and infrastructure, but also for ensuring that the healthcare workers they work with possess the appropriate competencies and perform services according to applicable standards. If a patient experiences harm due to system errors, lack of supervision, or the actions of healthcare workers within an employment relationship with the hospital, the hospital can be held legally accountable. This demonstrates that the resolution of alleged malpractice cases does not always focus on individual healthcare workers but must also consider aspects of institutional responsibility.

Developments in information technology and social media have also influenced the dynamics of handling alleged nursing malpractice cases. Information about alleged misconduct by healthcare workers can quickly spread widely and shape public opinion before an objective, credible investigation can take place. This often causes psychological stress for healthcare workers and can impact public trust in healthcare institutions. Therefore, a fair, transparent, and legally sound dispute resolution mechanism is needed to ensure equal protection for all parties.

On the other hand, preventing nursing malpractice must be a top priority in the provision of healthcare services. Prevention can be achieved through improving the competence of nursing staff, implementing ongoing education and training, consistently implementing standard operating procedures, strengthening a culture of patient safety, and enhancing internal oversight in hospitals. Furthermore, an understanding of the legal and ethical aspects of the profession must be instilled in nurses to ensure that all actions are carried out within the bounds of professionalism and applicable legal provisions. This minimizes the risk of errors or negligence that could potentially lead to legal disputes.

Based on the above description, it can be understood that the legal responsibility of nurses for alleged nursing malpractice is an issue of high relevance in the healthcare system. The complexity of the relationship between nurses, patients, and hospitals gives rise to various legal implications that require in-depth study. Therefore, research on the legal responsibility of nurses for alleged nursing malpractice in hospitals is important to provide a comprehensive understanding of the forms of legal liability that can be imposed on nurses, the factors that influence the emergence of alleged malpractice, and the dispute resolution mechanisms that can be adopted to achieve fair legal protection for all parties involved in healthcare.

This research aims to provide a deeper understanding of the concept of legal responsibility of nurses in healthcare practices in hospitals, contributing to the development of health law, improving the quality of nursing services, and strengthening legal protection for patients and healthcare workers in Indonesia. Furthermore, the findings of this study are expected to serve as a reference for policymakers, healthcare institutions, professional organizations, and nurses in efforts to enhance professionalism and prevent future allegations of nursing malpractice.

Problem Summary

Based on the research background regarding the legal responsibility of nursing staff for alleged nursing malpractice with a case study in a hospital, several legal problems can be identified as follows:

1. What is the background to malpractice committed by nurses in hospitals?
2. What is the legal protection for nurses who commit malpractice in hospitals?

2. RESEARCH METHODS

A. Types and Nature of Research

The research used in the scientific article entitled "Legal Responsibility of Nurses for Alleged Nursing Malpractice in Hospitals" is normative legal or normative juridical research. Normative legal research is research conducted by reviewing library materials or secondary data consisting of laws and regulations, legal theories, legal principles, expert doctrines, court decisions, and various literature related to the legal issue being studied. This research views law as a system of norms that regulates human behavior in social, national, and state life.

The choice of normative legal research is based on the research focus, which examines the legal responsibility of nurses for alleged nursing malpractice in hospitals. This issue is a legal issue that requires analysis of legal norms governing nursing practice, patient protection, professional standards, and the forms of accountability that can be imposed on nurses in the event of alleged malpractice. Therefore, this research focuses more on examining various applicable legal provisions than on collecting empirical data in the field.

This research is descriptive-analytical in nature, aiming to provide a systematic, factual, and accurate overview of the legal provisions governing the responsibilities of nursing staff in providing healthcare services in hospitals. In addition to describing applicable legal norms, this study also analyzes the application of these norms in cases of alleged nursing malpractice. Thus, this study not only explains existing legal regulations but also evaluates their effectiveness and relevance in providing legal protection to patients and nursing staff.

Descriptive-analytical research was chosen because it can provide a comprehensive understanding of the relationship between nursing professional standards, nurse authority, patient rights, and the forms of legal liability that can arise from the actions or negligence of nurses. This research is expected to provide answers to legal issues regarding the limits of nurses' responsibilities in healthcare practices in hospitals.

B. Research Approach

In normative legal research, the research approach is an important instrument for gaining a deep understanding of the legal issues being studied. This research uses several approaches, as follows:

1. Statute Approach

The legislative approach is conducted by examining all laws and regulations related to nursing practice and the legal responsibilities of healthcare workers. This approach aims to determine the compatibility between one legal norm and another and to identify the legal basis governing the responsibilities of nurses in carrying out their profession.

The laws and regulations that are the object of study include:

1. The 1945 Constitution of the Republic of Indonesia;
2. Law Number 17 of 2023 concerning Health;
3. Law Number 38 of 2014 concerning Nursing;
4. Law Number 44 of 2009 concerning Hospitals;

5. Civil Code (KUHPperdata);
6. Criminal Code (KUHP);
7. Regulations of the Minister of Health relating to nursing practice, patient safety, and quality of health services.

Through this approach, researchers analyze how these provisions regulate the rights, obligations, authority, and responsibilities of nursing staff in providing health services.

2. Conceptual Approach

A conceptual approach is used to examine various legal concepts that have developed in legal literature and doctrine. The concepts analyzed include:

- Legal liability;
- Nursing malpractice;
- Negligence;
- Professional misconduct;
- Nursing professional standards;
- Standard operating procedures (SOP);
- Legal protection for patients and health workers.

This approach is necessary because the term nursing malpractice is not always explicitly regulated in legislation, so an understanding of the legal concepts that develop in theory and doctrine is important to provide a strong analytical basis.

3. Case Approach

The case study approach examines various cases involving alleged malpractice by healthcare workers, both those resolved through the courts and other dispute resolution mechanisms. The analysis of these cases aims to determine how legal norms are applied in practice and the forms of accountability imposed on healthcare workers who violate professional standards.

The case approach is also used to understand the legal considerations used by judges or dispute resolution institutions in determining whether or not there is an element of fault and legal responsibility of health workers.

C. Sources and Types of Legal Materials

Normative legal research uses secondary data consisting of primary legal materials, secondary legal materials, and tertiary legal materials.

1. Primary Legal Materials

Primary legal materials are legal materials that have binding force and are the main source in research. The primary legal materials used include:

- a. The 1945 Constitution of the Republic of Indonesia;
- b. Law Number 17 of 2023 concerning Health;
- c. Law Number 38 of 2014 concerning Nursing;
- d. Law Number 44 of 2009 concerning Hospitals;
- e. Civil Code;
- f. Criminal Code;
- g. Regulations of the Minister of Health and other technical regulations relating to nursing practice.

Primary legal materials are used to determine the applicable legal norms and form the basis for analysis of the legal responsibilities of nursing staff.

2. Secondary Legal Materials

Secondary legal materials are legal materials that provide explanations of primary legal materials. The secondary legal materials used include:

1. Health law books;
2. Nursing law book;

3. Civil law and criminal law books;
4. National and international scientific journals;
5. Previous research results;
6. Scientific articles;
7. Opinions of legal experts and health practitioners.

Secondary legal materials serve to strengthen the analysis and provide a deeper understanding of the legal issues being researched.

3. Tertiary Legal Materials

Tertiary legal materials are materials that provide guidance and explanations for primary and secondary legal materials, including:

1. Big Indonesian Dictionary (KBBI);
2. Legal Dictionary;
3. Encyclopedia of Law;
4. Library index and catalog;
5. Other relevant reference sources.

D. Legal Material Collection Techniques

The legal data collection technique used in this research was library research. Library research is a data collection method that involves tracing, identifying, inventorying, and studying various legal sources relevant to the research object.

The stages of collecting legal materials are carried out through:

1. Inventory of Legal Materials

Researchers collected various laws and regulations related to nursing practice and the legal responsibilities of health workers.

2. Literature Identification

Researchers explored various books, scientific journals, research results, and articles that discuss nursing malpractice and the legal responsibilities of nursing staff.

3. Classification of Legal Materials

The legal materials obtained are then grouped based on their type and relevance to the research focus.

4. Documentation

All legal materials obtained are documented and recorded systematically to facilitate the analysis process and preparation of research results.

Through literature studies, researchers obtain a strong theoretical and normative basis for analyzing legal problems that are the object of research.

E. Legal Material Analysis Techniques

Legal material analysis is conducted qualitatively, namely by processing and interpreting the collected legal material without using statistical calculations. Qualitative analysis in normative legal research aims to discover the meaning, relationships, and relevance of legal norms governing the responsibilities of nursing staff.

The analysis stages are carried out as follows:

1. Identification of Legal Norms

Researchers identified all legal provisions governing nursing practice and the responsibilities of nursing staff.

2. Legal Interpretation

Researchers interpret legal norms using grammatical, systematic, and teleological interpretation methods to obtain a precise understanding of the intention of the legislator.

3. Harmonization of Law

Researchers compare various relevant legal provisions to determine the suitability and synchronization between laws and regulations.

4. Legal Liability Analysis

Analysis is carried out on the possibility of liability arising:

- Civil liability;
- Criminal liability;
- Administrative responsibilities;
- Ethical responsibility and professional discipline.

5. Evaluation of Law Implementation

Researchers evaluated the effectiveness of the application of legal norms in providing protection to patients and nursing staff in cases of alleged nursing malpractice.

F. Conclusion: Drawing Techniques

The technique for concluding this research uses the deductive method, namely, a method that draws conclusions from general legal rules to specific problems.

Using a deductive method, researchers first examined the legal provisions governing nursing practice, professional standards, and the responsibilities of healthcare workers. These provisions were then analyzed and applied to the alleged nursing malpractice case in the hospital to determine the form of legal liability that could be imposed on the nurse.

The conclusions obtained are expected to provide a clear picture of the limits of legal responsibility for nursing staff, the legal enforcement mechanisms for alleged nursing malpractice, and the legal protections available to patients and nurses in the Indonesian healthcare system. Thus, the research findings can provide theoretical contributions to the development of health law and practical contributions to improving the quality of nursing services in hospitals.

3. RESULTS AND DISCUSSION

A. The Concept of Nursing Malpractice in Health Services

Nursing services are an integral part of the healthcare system, aiming to provide professional nursing care to patients. In carrying out nursing practice, nurses are required to carry out their duties in accordance with professional standards, service standards, standard operating procedures (SOPs), and the nursing code of ethics. These obligations represent a form of professional responsibility that must be fulfilled to ensure patient safety and the quality of healthcare services.

The term malpractice comes from the word *malpractice*, which is generally defined as poor practice or professional conduct that deviates from established standards. In the context of nursing, nursing malpractice can be understood as actions or omissions by nurses that do not comply with professional and service standards, resulting in harm, injury, disability, or even death to patients.

Nursing malpractice is not always synonymous with intentional misconduct. In practice, most cases categorized as malpractice occur due to negligence (*negligence*) in carrying out professional duties. This negligence can include incorrect medication administration, misidentification of patients, delays in nursing interventions, inadequate monitoring of patient conditions, or failure to carry out legitimate medical instructions.

However, not all incidents that result in harm to patients can be directly categorized as malpractice. Proving malpractice requires several elements, namely:

1. There are legal obligations or professional obligations from nursing staff to patients.
2. There is a violation of professional standards or service standards.

3. There is a loss experienced by the patient.
4. There is a causal relationship (*causal relationship*) between the actions or negligence of the nurse and the harm experienced by the patient.

If any of these elements cannot be proven, the malpractice allegation may be legally dismissed. Therefore, any allegation of nursing malpractice requires objective evidence based on applicable professional standards.

B. Legal Position of Nursing Staff in Hospital Services

Nurses are professional healthcare workers competent to provide nursing care to individuals, families, groups, and communities. The legal status of nurses in Indonesia is regulated by Law Number 38 of 2014 concerning Nursing and Law Number 17 of 2023 concerning Health.

Based on these provisions, nurses have rights and obligations that must be upheld in their professional practice. Nurses are authorized to provide nursing care based on their nursing knowledge and competencies. Furthermore, nurses are obligated to provide services in accordance with professional standards, service standards, and the nursing code of ethics.

In the legal relationship between patients and hospitals, nurses act as professionals working within the hospital's service system. Therefore, every nursing action performed not only creates personal liability for the nurse but can also create institutional liability for the hospital.

The legal standing of nurses is crucial in determining who is responsible in the event of alleged malpractice. In some cases, responsibility may be placed on the nurse personally if the error occurred due to actions beyond their authority. However, if the error relates to the hospital's service system, the hospital may also be held legally liable.

Thus, the legal relationship in healthcare involves three main parties: the patient, the nursing staff, and the hospital. All three have interrelated rights and obligations in the provision of healthcare services.

C. Forms of Alleged Nursing Malpractice in Hospitals

Allegations of nursing malpractice can occur in various forms, depending on the type of nursing care provided to patients. Some forms of alleged malpractice frequently encountered in hospital care include:

1. Medication Error

Medication errors are one of the most common forms of malpractice. These errors can include:

- Wrong patient;
- Wrong dosage;
- Wrong type of medication;
- Wrong way of giving;
- Wrong time of delivery.

Medication errors can cause reactions that are dangerous to patients and have the potential to cause disability or death.

2. Negligence in Patient Monitoring

Nurses have an obligation to regularly monitor patients' conditions. If a nurse fails to observe changes in a patient's condition, resulting in a delay in medical treatment, this action could be considered professional negligence.

3. Patient Identification Error

Misidentification can result in medical or nursing care being administered to the wrong patient. This can lead to serious harm and be grounds for legal action.

4. Implementation of Actions Beyond Authority

Nurses are not permitted to perform medical procedures beyond their competence and authority, except in certain circumstances stipulated by law. Violations of this authority can constitute legal liability.

5. Breach of Medical Confidentiality

Nurses are required to maintain the confidentiality of patient data and information. Disclosing medical information without patient consent can result in legal consequences and a breach of professional ethics.

D. Civil Liability of Nursing Personnel for Alleged Nursing Malpractice

Civil liability arises when a nurse's actions or omissions cause harm to a patient. The legal basis for civil liability can be found in the provisions on breach of contract and unlawful acts as stipulated in the Civil Code.

In healthcare, there is a legal relationship between the patient and the healthcare professional, which gives rise to rights and obligations for each party. If a nurse fails to fulfill their professional obligations according to applicable standards and results in harm to the patient, the patient can file a civil lawsuit.

The elements that must be proven in a civil lawsuit include:

1. There is an unlawful act.
2. There is an error or omission.
3. There is a loss experienced by the patient.
4. There is a causal relationship between the act and the loss.

Claims for damages include both material and non-material losses. Material losses can include additional medical expenses, lost income, and rehabilitation costs. Non-material losses, on the other hand, can include physical or psychological suffering experienced by the patient.

Apart from nurses, hospitals can also be held responsible based on the principle of vicarious liability or the employer's responsibility for the actions of health workers under their supervision.

E. Criminal Responsibility of Nursing Personnel for Alleged Nursing Malpractice

Criminal liability may be imposed if the nurse's actions or negligence meet the elements of a criminal act as stipulated in statutory regulations. In criminal law, a person can only be punished if there is an element of error (*debt*) which can be legally accounted for.

In cases of alleged nursing malpractice, criminal liability generally relates to:

1. Negligence Causing Serious Injury

If the nurse's negligence results in the patient suffering serious injury or permanent disability, then criminal liability may arise in accordance with applicable criminal law provisions.

2. Negligence Causing Death

If it is proven that the patient's death occurred due to serious negligence on the part of the nurse, the nurse may be subject to criminal sanctions in accordance with the provisions regarding negligence resulting in the loss of a person's life.

3. Intentional Actions that Harm Patients

Under certain circumstances, nurses can be held criminally liable if they intentionally carry out actions that endanger or harm patients.

However, not all errors in healthcare services can be immediately prosecuted. Criminal law enforcement must adhere to the precautionary principle, as healthcare services carry medical risks that cannot always be avoided even if healthcare workers adhere to professional standards.

F. Administrative and Disciplinary Responsibilities of the Nursing Profession

In addition to civil and criminal liability, nurses may also be subject to administrative liability and professional discipline. Administrative liability relates to violations of licensing requirements, practice authority, and healthcare procedures.

Administrative sanctions that may be imposed include:

1. Verbal reprimand;
2. Written warning;
3. Professional development;
4. Practice restrictions;
5. Revocation of practice permit.

In addition, nurses may also be subject to ethical sanctions and professional discipline if they are found to have violated the nursing code of ethics or professional standards. Enforcing professional discipline aims to maintain the quality of nursing services and increase public trust in the nursing profession.

G. Legal Protection for Nursing Staff in Allegations of Nursing Malpractice

In addition to having legal responsibilities, nursing staff also have the right to receive legal protection while carrying out their professional duties in accordance with professional standards and standard operating procedures.

This legal protection is important because not all incidents that harm patients are the result of healthcare provider error. In many cases, patient harm can occur due to disease complications, serious conditions, or unavoidable medical risks.

Forms of legal protection for nurses include:

1. The right to obtain legal assistance;
2. The right to obtain professional defense;
3. The right to receive an objective examination based on professional standards;
4. The right to obtain protection from criminalization of the profession;
5. The right to protection from baseless demands.

To determine whether or not malpractice has occurred, an examination is required by a party who has competence in the field of nursing so that the assessment is carried out professionally and objectively.

H. Analysis of Legal Responsibility of Nursing Personnel for Alleged Nursing Malpractice in Hospitals

The legal liability of nurses essentially depends on the presence of fault, violation of professional standards, and losses resulting from nursing actions. Allegations of malpractice cannot automatically be interpreted as legal wrongdoing until proven in accordance with applicable regulations.

In hospital practice, determining legal responsibility must take into account several factors, namely:

1. Compliance of actions with professional standards;
2. Compliance of actions with standard operating procedures;
3. Nurse competency level
4. Causal relationship between the action and the patient's harm;
5. The role of hospitals in providing health services.

If a violation of professional standards is proven to have resulted in patient harm, the nurse can be held liable under civil, criminal, administrative, and ethical laws, depending on the severity of the culpability. Conversely, if the action was taken in accordance with professional standards and the harm occurred due to an unavoidable medical risk, malpractice charges are not legally justifiable.

Therefore, resolution of alleged nursing malpractice cases must be conducted professionally, objectively, and fairly, while taking into account legal protection for both

patients and nurses as healthcare professionals. With this balance, the goals of healthcare services focused on patient safety and legal certainty for healthcare workers can be optimally achieved.

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