



Karlina Harsono Ilham, Intarniati Nur Rohmah, Edward Kurnia Setiawan L.

OVERVIEW OF LEGAL DECISIONS ON ALLEGED MALPRACTICE BY PROFESSIONAL DOCTORS AND DENTISTS: STUDY OF DATA AT THE SUPREME COURT IN 2016-2020

Karlina Harsono Ilham¹, Intarniati Nur Rohmah^{2*}, Edward Kurnia Setiawan L.³

¹Faculty of Medicine, Universitas Diponegoro, Semarang, Indonesia

²Department of Forensic and Medicolegal, Faculty of Medicine, Universitas Diponegoro, Semarang, Indonesia

³Department of Clinical Pathology, Faculty of Medicine, Universitas Diponegoro, Semarang, Indonesia

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Corresponding Author:

E-mail: intarforensic@gmail.com

ABSTRACT

Background: Malpractice is an act that is not appropriate from the actions of an expert, a lack of sub-standard skills, or an expert's inaccuracy in carrying out the legal obligations, practices that are not in accordance with procedures, or illegal or immoral acts. This study is descriptive of the description of the final legal decision obtained by the doctor and/or dentist regarding allegations of malpractice in practicing medicine. **Aim:** To find out the problems of malpractice cases, law enforcement in the form of sanctions and laws reviewed and legal decisions related to alleged malpractice by the profession of doctors and / or dentists in the Supreme Court in 2016-2020 in Indonesia. **Methods:** This research is a descriptive study. The data population is based on cases of professional malpractice of doctors and/or dentists based on data at the Supreme Court (Mahkamah Agung) in 2016- 2020. **Results:** The results showed that 71% were found not guilty and 29% were found guilty of cases of alleged medical malpractice in carrying out their treatment. **Conclusion:** Cases of doctors who were sued by patients and complainants at the Supreme Court based on 2016-2020 data on suspicion of committing acts of malpractice in medical practice resulted in 71% of cases being declared not guilty while 29% were found guilty of malpractice and served sentences in accordance with the final decision. that has been determined, whether to get a sanction in the form of compensating for the loss to the plaintiff along with the expenditure of the ongoing Supreme Court proceedings or legal sanctions in accordance with the law that has been violated.

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INTRODUCTION

Doctors are a noble profession in helping to heal patients and also a risky profession in carrying out a medical procedure. Therefore, it is very important for doctors to understand the medical code of ethics and law enforcement rules so that there is no violation that can harm the medical profession.

Violations of medical practice easily become a concern for the public, legal observers, and also health workers. The view of malpractice cases from various economic and professional backgrounds regarding medical practice will be a disadvantage that forms public opinion to generalize and corner the profession of doctors and/or dentists who are

suspected of being the guilty party. Malpractice is an act that is not appropriate from the actions of an expert, a lack of substandard skills, or an expert's inaccuracy in carrying out his legal obligations, non-procedural or illegal practices or immoral acts.

Various appointments of malpractice cases in the mass media have led to the emergence of various perspectives from the Indonesian people regarding medical practice. This resulted in the emergence of a case report of alleged malpractice by a doctor or dentist to the court. In addition, the factors that cause violations of medical practice. Some of them are caused by elements of error, negligence to act, violations, because they are based on the



ineffectiveness of medical actions in the Standard Operating Procedures (SOP), Medical Professional Standards (SPK) and *Informed Consent*.¹

Along with the development of technology and the dissemination of information through mass media, many people are increasingly understanding and aware with the law. Not a few have reported lawsuits or filed cases related to cases of alleged malpractice committed by doctors and/or dentists who are suspected of committing acts against the law. According to Article 136 of the Civil Code, it is explained that in legal science, one of the categories of unlawful acts is caused by negligence.

This is even more supportive if there is an act or when health workers take actions that can cause harm to others. Moreover, if there are negative public assumptions about violations committed by the medical profession. This increases the reporting of alleged criminal acts committed by professional doctors and/or dentists to parties dealing with civil losses in court, with one example of the law being reviewed is Article 66 of Law number 29 of 2004 concerning the practice of strengthening complaints reports.²

This research conducted in order to find out how the description of legal decisions on allegations of malpractice committed by the medical profession and/or dentists based on the final decision data at the Supreme Court in 2016- 2020. Data over a 5-year period from 2016-2020 was chosen because it can be used to see case trends in research conducted in 2021. Data obtained from the final decision data related to allegations of malpractice committed by the medical profession and/or dentist at the Supreme Court. Data from the Supreme Court was used due to limited data regarding malpractice cases in district courts in Indonesia. The second reason is that data from the Supreme Court is easily accessible and can be seen by everyone

MATERIALS AND METHODS

This research was conducted based on data from the Supreme Court in 2016- 2020. The research method used is descriptive study research. This research was conducted to find out the description of the case, law enforcement in the form of sanctions, laws, and laws that were reviewed as well as legal decisions related to allegations of malpractice committed by doctors and/or dentists at the Supreme

Court in 2016-2020 in Indonesia.

Sample and inclusion criteria in this study were to sort out the case data according to the criteria, namely cases of suspected malpractice by the medical profession and/or dentist. The type of data from this study was obtained from secondary data on malpractice cases taken from the website of the Supreme Court, namely <https://putusan3.mahkamahagung.go.id>. Keywords used in the search on the website are malpractice, doctors, dentist, hospitals, clinics. Keywords used in the search on the website are malpractice, doctors, hospitals, clinics. All malpractice data that occurred during the period 2016-2020 that matches the keywords will be used.

Data collection method in this research was finding and sorting case data according to the criteria, namely cases of alleged malpractice by a professional doctor and/or dentist, recording the necessary data including basic data on malpractice cases, the form, and some requests by the plaintiff individually. material and immaterial, final court decisions and sanctions applied, and conducting data analysis as well as comparing variables and research paths.

A descriptive analysis was carried out on the results of the research data that had been obtained. This research will keep the identity of the subject confidential and will not be published for any purpose. All research costs are borne by the researcher.

RESULT

This research was conducted based on online data from the Indonesian Supreme Court in 2016-2020 with the aim of obtaining information about the description of the case, law enforcement in the form of sanctions, laws and regulations that were reviewed and the final court decision regarding allegations of malpractice committed by doctors and/or dentists. in the Supreme Court in 2016-2020 in Indonesia. Data were obtained and samples were taken based on the time sequence that met the research inclusion criteria until December 2020. Data related to allegations of malpractice committed by doctors and/or dentists at the Supreme Court are final decision data from court proceedings which are downloaded from the Court's online website. Agung Indonesia in 2016-2020.



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Result in this research are described in the form of a description of the main case carried out by doctors and/or dentists at the Supreme Court in the form of case characteristics, chronological descriptions of cases, alleged forms of malpractice

committed by doctors and/or dentists, legal provisions relating to the main case and the final decision of the Supreme Court against doctors and/or dentists who are found guilty or not guilty.

Table 1. Summary of Malpractice Cases from 2016-2020

No	Profession Include	Type of Malpractice	Court Verdict
1	Doctor (Surgeon)	Allegations of showing and opening patient medical records to TV mass media	Proven Not Guilty
2	Doctor (Urologist)	<ol style="list-style-type: none"> 1. Allegedly carrying out actions not in accordance with SOP (standard operational procedure) 2. Allegedly not asking and providing informed consent to the patient regarding the actions to be given 	Proven Not Guilty
3	Doctor (Obstetricians)	Alleged Violations in the Imposition of Sanctions/Decisions Determined by the MKDKI (Majelis Kehormatan Disiplin Kedokteran Indonesia)	Determined guilty of disciplinary violations based on the MKDKI decision and the investigation review by the Supreme Court is terminated. Revocation of STR for 9 months and replacement of a fine of court costs of Rp. 2,500,000.00 (two million five hundred thousand rupiah)
4	Doctor	<ol style="list-style-type: none"> 1. Allegations in neglect or not giving emergency handling and result in death to patient/child plaintiff 2. Allegations not immediate perform a diagnosis and more handling more about patient/child plaintiff 	Proven not guilty
5	Dentist	<ol style="list-style-type: none"> 1. Alleged failure to provide written consent or informed consent 2. Alleged incompetence in practicing medicine 3. Alleged failure to refer to a competent doctor 4. Alleged failure to intentionally store medical records 5. Alleged causing harm, both materially and to the body, physical and mental health 	Determined Guilty, defendant pay compensation immaterial Rp100,000.000.00 (one hundred million rupiah) and need to replace cost case Rp. 500,000,00 (five hundred thousand rupiah)
6	Dentist	Allegation not following SOP (standard operational procedure) when installing braces	Proven not guilty
7	Doctor (Orthopedict)	<ol style="list-style-type: none"> 1. Alleged for make a mistake in diagnosing a pasien 2. Allegation cause physical loss to patient 	Proven not guilty
8	Doctor (Obstetricians)	Allegedly not give help in emergency state in the form of labor	Guilty, pay in full loss of a certain amount Rp200,000,000.00 (two hundred million rupiah)



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9	Doctor (Neurologist)	1. Allegation of committing an unlawful act 2. Allegation of causing harm to another person 3. Allegation of making an error in carrying out the medical care process	Proven not guilty
10	Doctor (Andrologist)	1. Allegation violate agreement 2. Allegation give guarantee of success according to the content agreement 3. Allegation giving loss for patient	Proven not guilty
11	Doctor	Allegedly produce and to distribute stock pharmacy or medical devices that does not meet the standard and security skin	Guilty, prison sentence 1 (One) year and criminal fine Rp.800,000,000,00 (eight hundred million rupiah)
12	Doctor (Obstetrician and Pediatrician)	1. Allegedly for not making and giving medical record 2. Allegation cause physical loss /disability permanent	Guilty, Obstetrician need to pay compensation of loss (one hundred and five) million six hundred thousand rupiah) and court costs Rp. 751,000.00 (seven hundred and five twenty one thousand rupiah)
13	Doctor (Obstetricians)	Allegedly not making a preventive effort for prevent the occurrence of injury physique	Proven not guilty
14	Doctor and Ophtalmologist	1. Allegation action oppose law 2. Allegation cause loss	Proven not guilty
15	Doctor (Pediatrician)	1. Allegation do negligence so that cause loss 2. Allegedly not do procedure in the form of a skin test/test allergy	Proven not guilty
16	Doctor	1. Allegation done negligence so that cause loss 2. Allegedly not do informed consent and do anamnesis (about history disease/health atan) patient	Proven not guilty
17	Doctor (Orthopedics)	Allegation cause loss for patient	Proven not guilty

DISCUSSION

Overview of the results of the case study of doctors at the Supreme Court

There are so many cases of malpractice in Indonesia and enough to grab the attention of the public which sometimes forms public opinion to tend to corner the position of doctors as perpetrators of malpractice. Specialist type of doctor profession

Those who are often reported to include ophthalmologists, neurologists, surgeons, obstetricians, pediatricians, dentists and others. While in America based on the analysis of Thomas, et al. (2018) of 343 cases of suspected malpractice at surgeons in America with the results, among others, as many as 165 cases (48.1%) were won by doctors and 93 cases (27.1%) were won by patients. In detail,

81 cases (23, 6%) is settled by paying compensation.

Meanwhile, in Japan there are 100 cases of medical malpractice with classification 92 cases were found guilty and only 7 cases were found not guilty. Of the 92 cases that were found guilty, 65 cases (70%) were convicted of professional negligence resulting in death. Meanwhile, 21 cases (23%) of professional negligence resulted in bodily injury, 1 case (1%) of professional negligence resulted in death and bodily injury, and 1 case (1%) of both December 2020. Data related to allegations of malpractice committed by doctors and/or dentists at the Supreme Court are final decision data from court proceedings which are downloaded from the Court's online website. Agung Indonesia in 2016-2020.



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The results of the research are described in the form of a description of the main case carried out by doctors and/or dentists at the Supreme Court in the form of case characteristics, chronological descriptions of cases, alleged forms of malpractice committed by doctors and/or dentists, legal provisions relating to the main case and the final decision of the Supreme Court against doctors and/or dentists who are found guilty or not guilty.

Professional Doctor and/or Dentist who was sued for alleged malpractice at the Supreme Court in 2016-2020

Based on data available at the Supreme Court in 2016-2020, the type of medical profession that is often reported and in legal proceedings up to the Supreme Court level with the first highest number of cases that have received a final decision based on 2016-2020 data is Obstetrics and Gynecology with the number of 4 cases in 2016 (2) and 2018 (2), the second place is General Practitioners with a total of 3 cases in 2016 (1), 2017 (1) and 2019 (1) with third place, namely Dentists with 2 cases, both of which were processed in 2017, in addition to other types of medical professions that have a similar number of cases, namely Orthopedic Doctors, there were 2 cases that occurred in 2017 and 2019, Likewise with Pediatricians, there were 2 cases that occurred in 2018 and 2019. The type of medical profession with the last order with 1 number of cases in the Supreme Court between 2016-2020 was a Neurologist, Surgeon, Urologist and Ophthalmologist.

Result of Final Decision of Doctor and/or Dentist suspected of malpractice in 2016- 2020

The results of the final decision for doctors and/or dentists who are suspected of committing malpractice while carrying out their medical practice can be seen that 71% are found not guilty in the final decision that has been ratified by the Supreme Court and regardless of the sanctions and consequences stipulated by law which are intended during the court process. take place.

Based on the verdict, it was stated that 29% were found guilty of alleged malpractice during their medical practice. This is based on the legal provisions and provisions of the Criminal Code, the Criminal Procedure Code and the Law on Medical Practice in accordance with the case. The sanction is determined

by the judge in the Supreme Court with a process of consideration and also verifying the medical practice procedures that have been carried out by each doctor and/or dentist.

The final verdict of 29% of doctors and/or dentists found guilty

1. The doctor in question is found guilty of the said case and pays immaterial compensation in the amount of paying compensation in the amount of Rp.200,000,000.00 (two hundred million rupiah)
2. The doctor in question is found guilty of the said case and pays immaterial compensation in the amount of Rp.100,000,000.00 (one hundred million rupiah) and is sentenced to replace the court fee of Rp.500,000.00 (five hundred thousand rupiah).
3. The doctor in question is found guilty, subject to imprisonment of 1 (one) year and a fine of Rp.800,000,000.00 (eight hundred million rupiah)

Result of the Final Decision for the Type of Profession Doctor and/or Dentist who is found guilty

Based on the results of the final decision on the types of professions of doctors and/or dentists who were found guilty based on data from the Supreme Court in 2016-2020 on cases related to the implementation of their medical practice which had indications of malpractice, there were 50% (2 cases) of the total doctors who were found guilty. obstetrician who was found guilty in the first case regarding the suspicion of not providing assistance in an emergency in the form of childbirth and the second case with an alleged error in the provision of sanctions/decisions determined in cases of errors in carrying out procedural actions, in addition there were 25% (1 case) of all of the doctors who were found guilty were dentists regarding one of their allegations, namely not making referrals to doctors who have competence.

Other cases that were found guilty based on the final decision of the Supreme Court were carried out by general practitioners with a total of 1 case which constitutes 25% of the total doctors who were found guilty, with a case concerning the alleged manufacture and distribution of pharmaceutical



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preparations or medical devices that do not meet skin safety and standards.

Limitation of this study is the limited data obtained only from the Supreme Court. Further research needs to be conducted periodically every 5 years with the addition of data other than from the Supreme Court.

CONCLUSION

Cases of doctors who were sued by patients and complainants at the Supreme Court based on 2016-2020 data on suspicion of committing acts of malpractice in medical practice resulted in 71% of cases being declared not guilty while 29% were found guilty of malpractice and served sentences in accordance with the final decision. that has been determined, whether to get a sanction in the form of compensating for the loss to the plaintiff along with the expenditure of the ongoing Supreme Court proceedings or legal sanctions in accordance with the law that has been violated.

SUGGESTION

Subsequent research can explore further with regard to the legal theory used in imposing the sanction for being guilty of malpractice.

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